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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 13th February, 2018*

+ W.P.(C) 8261/2015

PANKAJ JAIN

..... Petitioner

Through: Ms. Esha Mazumdar and Mr. Setu Niket,
Advocates.

versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms. Jyoti Tyagi, Advocate.
Mr. Dhanesh Relan and Ms. Akshita
Manocha, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. The petitioner seeks quashing of notification No. 10(29)/96/L&B/LA 11394 dated 27.10.1999 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The subject matter of this writ petition is land comprised in Khasra No. 36/8 (0-11) situated in village Shahbad Daulatpur, Delhi.
3. Some necessary facts which are required to be noticed for disposal of this writ petition are that a Section 4 notification of the Act was issued on 27.10.1999 followed by a notification under Section 6 of the Act

issued on 03.04.2000. Aggrieved by the aforesaid notifications, similarly situated land owners had filed a writ petition in Delhi High Court being W. P. (C) 2326/2000 titled as ***“Bhupender Singh & Ors. Vs. Union of India & Ors.”***.

4. It is also pointed out that vide order dated 09.07.2007 passed by the Delhi High Court, the case of the land owners was dismissed. Aggrieved by the order dated 09.07.2007 passed by the Delhi High Court various similarly situated land owners approached the Hon'ble Supreme Court vide CA No. 3514-3517/2007 and various other connected matters. The Hon'ble Supreme Court issued notice and granted interim stay of the order passed by the High Court of Delhi on 03.08.2007. By an order dated 21.03.2012, the Supreme Court was pleased to quash the declaration under Section 17 of the Act and the declaration dated 03.04.2000 issued under Section 6 of the Act.
5. It is not in dispute that pursuant to the order passed by the Hon'ble Supreme Court, the LAC issued a general public notice thereby inviting objections under Section 5A of the Act. The petitioner approached the LAC and filed objections in his individual capacity and also through the Residents Welfare Association.
6. A fresh declaration under Section 6 of the Act was made on 20.03.2013 after a lapse of the statutory period of one year. Learned counsel for the petitioner submits that neither the possession of the land in question was taken nor the compensation has been paid. She further submits that since the fresh Section 6 notification was made after a lapse of more than one year, the case of the petitioner would be covered by the decision rendered by the Coordinate Bench of this

Court in W. P. (C) 3049/2013 titled as ***Sunil Goel & Others Vs. The State and Others*** decided on 29.04.2014 when batch of cases were decided. Reliance is placed on para 18 of the judgment, which is reproduced as under :

18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of ***Padmasundara Rao (supra)*** covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was - whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in ***Padmasundara Rao (supra)*** in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.

7. It is further pointed out that the case of ***Sunil Goel (Supra)*** has attained finality as SLP preferred by the respondents stands dismissed *in limine*.
8. Learned counsel for the petitioner has also relied upon the relevant dates to draw the attention of the Court that the period of one year has lapsed and fresh notification under Section 6 of the Act is delayed by 7 months and 16 days.
9. Mr. Jain, learned Standing Counsel for LAC has also drawn the attention of this Court to para 5 of the counter affidavit which has

been placed on record. Para 5 of the counter affidavit is reproduced below:

“5. It is submitted that the lands of village Shahbad Daulatpur were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under Section 6 of the Act dated 03.04.2000. the Award was also passed vide Award No. 29/02-03. It is submitted that the Hon’ble Supreme Court quashed the notification u/s 6 on 21.03.2012 in SLP No. 3513/2017 and fresh section u/s 6 was issued on 20.03.2013 which was followed by Award No. 5/2014-15. Neither the possession of the subject land could be taken nor the compensation be paid.”

10. Mr. Jain further submits that the fresh notification under Section 6 of the Act was issued within a period of one year of the judgment rendered by the Apex Court on 21.03.2012.
11. We have heard learned counsel for the parties.
12. The case of the petitioner is in our view is fully covered by the decision rendered in the case of ***Sunil Goel (Supra)***, wherein the Division Bench has relied on a decision of Hon’ble Supreme Court in ***Padmasundara Rao (supra)***. The details of the time period applicable to the present case, is detailed below in the form of a chart.

		Time Lapse
Date of Section 4 notification	27/10/1999	
Date of stay granted by High Court	16/05/2000	6 months 19 days
Date of dismissal from High Court	09/07/2007	
Date of Notice and stay by the Hon’ble Supreme Court	09/08/2007	1 month

Date of decision by Hon'ble Supreme Court quashing the declaration u/s & urgency clause u/s 17 of the Land Acquisition Act, 1894	21/03/2012	
Declaration u/s 6	20/03/2013	11 months 27 days
Total time lapse		1 Year 7 months 16 days

13. Considering the time line we have detailed hereinabove leaves no room for doubt that the fresh notification under Section 6 of the Act was not issued within a period of one year after deducting the time spent in Court and covered by the stay order granted by the Court i.e. 6 months 19 days for a period of stay granted by the High Court and one month from 09.08.2007 being the period of stay granted by the Supreme Court. Resultantly, the writ petition is allowed. The notification dated 27.10.1999 under Section 4 of the Act and the fresh notification dated 20.03.2013 under Section 6 of the act are quashed.

CM No.17391/2015 (stay)

The application stands disposed of, in view of order passed in the writ petition.

नस्यमेव जयते

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 13, 2018
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