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

Date of Judgment :13th February, 2018

+ W.P.(C) 8330/2015

MAHENDER KAUR

..... Petitioner

Through Ms. Richa Oberoi, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr. Roshan Lal Goel, Adv. for UOI.
Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.
Mr. Dhanesh Relan, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to land of petitioner admeasuring 1 bigha comprised in Khasra no.48/15, situated in the revenue estate of village Pehladpur Bangar, Delhi (hereinafter referred to as the 'subject land') stands lapsed in view of section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') as compensation has not been tendered to the petitioner.
2. In this case, a notification under section 4 of Land Acquisition Act, 1894 ('the Act' in short) was issued on 21.03.2003 and a

declaration under section 6 of the Act was made on 19.03.2004. Thereafter, an award bearing no.06/2005-06 was passed on 12.07.2005.

3. Counsel for the petitioner submits that neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioner. Counsel further submits that the land in question is built up. She contends that the acquisition pertaining to the land in question has been a subject matter of a large number of writ petitions including W.P. (C) 2492/2015 Ankit Bansal Vs. Union of India and others, W.P. (C) 2488/2015 Gaurav Kumar Vs. Union of India and others & W.P. (C) 2491/2015 J.C. Gupta Vs. Union of India and others. Counsel also contends that Special Leave Petitions have already been filed against all of the orders pertaining to the same village being SLP (C) 13551/2015, Civil Appeal No.6112/2017 Govt. of NCT of Delhi Vs. Manav Dharma Trust and another. The civil appeals pertaining to the above mentioned three cases are Civil Appeal No.6260/2017, 6179/2017 and 6183/2017. She submits that these Special Leave Petitions/Civil Appeals already stand dismissed.
4. Counsel for LAC has drawn attention of the Court to para 4 of the counter affidavit, which reads as under :-

“4. That it is submitted that the lands of village Pehladpur Bangar were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No.06/05-06 dated 12.7.2005. It is submitted that however the possession of subject land falling in khasra number 49//15 min (1-00) could not be taken nor the compensation could be paid.”

5. Counsel for DDA submits that although admittedly possession of the land has not been taken but the land is to be utilized for the Rohini Residential Scheme and for the purposes of Group Housing Society Pocket 18 in Sector 31. Counsel for the petitioner submits that from the date of the award i.e. 12.07.2005, no steps have been taken either by the DDA or the LAC to take over the actual physical possession of the land which is evident from para 4 of the counter affidavit filed by LAC and also para 7 of the counter affidavit filed by DDA. Para 7 of the counter affidavit filed by DDA reads as under :-

“7. I say that as per land record of DDA, land bearing Khasra No.49//15 (4-16) of village Prahladpur Bangar has duly been notified u/s 4 vide notification No.F11(19)01/L&B/LA dated 21-03-2003 and u/s 6 Vide notification No.F11(15)04/L&B/LA dated 19.03.2004 for public purpose for planned development of Delhi under the provisions of the Land Acquisition Act 1894. After Notifications land in question has duly and legally been acquired vide Award No.6/05-06/DC/NW dated 12.07.2005.

The physical possession of the land bearing Khasra No.49//15 (4-16) of Village Prahladpur Bangar has not been handed over by the LAC/L&B Department to the DDA due to built up. Possession Proceedings of Village Prehladpur Bangar dated 31.8.2005 of Award No.06/2005-06 is annexed hereto as **ANNEXURE R-1.**

6. Counsel for the petitioner submits that since neither possession of the subject land has been taken nor compensation has been tendered, the case of the petitioner would be fully covered by the provision of section 24 (2) of 2013 Act.
7. Having regard to the submission made and the stand taken by the respective respondents in the counter affidavits, it leaves no room for

doubt that neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioner. Moreover, in the case of Ankit Bansal, Gaurav Kumar and J.C. Gupta(supra) pertaining to the same village, the acquisition proceedings have already lapsed and these orders have attained finality as the appeals have been rejected by the Supreme Court of India. We may also note that since 2005 when the award was made, the possession of the subject land has not been taken. Resultantly, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.

8. The writ petition is disposed of.

CM APPL 17624/2015 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

FEBRUARY 13, 2018/ck/