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

% *Date of Judgment: 21st May, 2018*

+ W.P.(C) 8758/2017

BALJEET SINGH AND ORS.

.....Petitioners

Through: Mr. M. C. Verma, Mr.Akhilesh
Kumar Singh, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Vishal Mahajan, Senior Penal
Counsel for respondent no.1/UOI.
Mr.Yeeshu Jain, Standing counsel
along with Ms. Jyoti Tyagi and
Mr.Rajnish Sharma, Advocates for
respondent/LAC/L&B.

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. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking quashing and setting aside of the Notification issued under Section 4 of the Land acquisition Act, 1894 being No. F.15(245)/60/LSG-L&H dated 24.10.1961, setting aside of the declaration issued under Section 6 of the Land acquisition Act, 1894 being No.F.4(5)/63-L&H(I) dated 06.12.1966 and the Award No. 35/81-82 dated 10.11.1981. The petitioners further seek a declaration that the acquisition proceedings in respect of the land measuring

2 bigha comprised in Khasra No.52//30 situated in the revenue estate of village Badli, Delhi (*hereinafter referred to as 'the subject land'*) stands lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (*hereinafter referred to as '2013 Act'*), as neither the physical possession has been taken nor compensation has been paid to the petitioners.

3. Counsel for the petitioners submits at the outset that the decision of the Constitution Bench of the Apex Court will have no bearing to the facts of the present case in view of the categorical stand taken by the LAC in the counter affidavit.
4. The learned counsel for the petitioners submits that as neither the physical possession of the subject land was taken nor the compensation in that regard was paid by the respondents, the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act. Learned counsel further relies on the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi Vs. Manav Dharma Trust and another***, reported in ***2017 (6) SCC 751***, in response to the stand taken by LAC in the counter affidavit that the petitioners has no *locus standi* to file the present petition as he is not the recorded owner.

Reliance is placed on para 28 of this judgment which reads as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably

they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi.”

5. Mr. Jain submits that actual vacant physical possession of the land (5-01) was taken way back on 12.11.1981 on the spot. However, the possession of the remaining land measuring 2 bigha (subject matter of this writ petition) could not be taken nor the compensation in respect thereof was paid to the petitioners. He submits that the petitioners are not entitled to relief pertaining to 2400 square yards land but they are only entitled to relief for 2 bigha of land. Mr. Jain also raised an objection with regard to the maintainability of the writ petition on the ground that the petitioners are not the rightful owners. Counsel for the LAC has placed reliance on para 4(A) of the counter affidavit which we reproduce below:

“4A. That it is submitted that the lands of village Badli were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 24.10.1961 which was followed by the Notification under Section 6 of the Act dated 06.12.1966. The Award was also passed vide Award No.35/81-82 dated 10.11.1981 which covered the khasra number 52/30 (7-01). The actual vacant physical possession of the land (5-01) out of the said land was taken away back on 12.11.1981 on the spot by preparing possession proceedings and was handed over to the DDA on the spot. The possession of the remaining land measuring (2-00) could not be taken nor the compensation be paid for (2-00) but the petitioners have been claiming the relief of 2400 square yards i.e. (2-08) which is not permissible under the law”.

6. We have heard learned counsels for the parties.

7. The learned counsel for the petitioners has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioners is misplaced in view of the observations made by the Supreme Court in *Manav Dharma Trust (supra)* where the rights of the subsequent purchaser have been recognised.
8. We are of the considered view that the judgement of the Supreme Court in the case of *Manav Dharma Trust (supra)* would apply to the facts of the present case.
9. A reading of Section 24 (2) of the 2013 Act leaves no room for doubt that the petitioners are entitled to relief so claimed as neither the physical possession of the subject land has been taken nor compensation has been paid and since, the award having been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly.
10. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
11. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

MAY 21, 2018/gr

SANGITA DHINGRA SEHGAL, J