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

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

+ W.P.(C) 8750/2017

KAUSHALYA YADAV

..... Petitioner

Through: Mr.M.C.Verma, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
respondent/LAC/L&B.

Mr.Ajay Verma, Standing Counsel for
respondent/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. This is a petition under Article 226 of the Constitution of India. The petitioner seeks a declaration that the Notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (*hereinafter referred to as 'the Act'*) and the Award thereafter, are liable to be quashed as the declaration under Section 6 of the Act has not been issued within the statutory period of one year from the date of issuance of Section 4 notification with respect to the land comprised in Khasra No.260(1-00) situated in the revenue estate of Village Shahbad Daulatpur, Delhi.

3. In this case, a notification under Section 4 of the Act was issued on 28.04.1995 and a declaration under Section 6 of the Act read with Section 17 of the Act was issued on 26.04.1996. Residents Welfare Association (in short 'RWA') had collectively filed a Writ Petition (C) No.3938/1996. The land of the petitioner was also included in the aforesaid writ petition. This Court by an order dated 09.07.2007 dismissed the writ petition which led to the filing of the S.L.P. (C) No.12522-23/2007 which was then converted into a Civil Appeal bearing No.3022-3023/2012. The appeals were allowed by a judgment dated 21.03.2012. Time was granted to the petitioner to file objections under Section 5(A) of the Act which were rejected by the Land Acquisition Collector on 31.01.2013. Thereafter, a fresh declaration under Section 6 of the Act was issued on 26.04.2013.
4. It is the case of the petitioner that this declaration under Section 6 of the Act was issued after a lapse of the statutory period of one year and is, therefore, liable to be quashed. Learned counsel for the petitioner further contended that neither the physical possession of the land in question was taken nor the compensation has been paid. It is also contended that the challenge of the RWA to this Section 6 notification was allowed on 21.02.2015, based on the judgment rendered by this Court in *Sunil Goel & Ors. vs. The State & Ors.*, [Writ Petition (C) 3049/2013 decided on 29.04.2014], however, petitioner's land was not included in the writ petition. It is the contention of the counsel for the petitioner that the case of the petitioner is fully covered by the decision rendered by the Coordinate Bench of this Court in the case of *Sunil Goel & Ors.* (supra) and subsequent to other writ petitions

which have been allowed by the Court from time to time. 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.*

5. Although counter affidavit has not been filed by the LAC, Mr.Jain, counsel for the LAC fairly submits that since Khasra number in the present writ petition is identical to the khasra number in Writ Petition (C) 8643/2017, therefore, the counter affidavit filed in Writ Petition (C) 8643/2017 may be read as reply to this writ petition as well.
6. Basic facts have not been disputed. Para 5 of the counter affidavit filed in Writ Petition (C) 8643/2017 and relied upon reads as under:

“That it is submitted that the lands of village Shahbad Daulatpur were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 28.04.1995 which was followed by the Notification under Section 6 of the Act dated 26.04.1996 however the affected parties challenged the acquisition proceedings and the Hon’ble Supreme Court quashed the notification u/s 6 on 21.03.2012 in SLP No.3513/2007 and fresh declaration

u/s 6 was issued on 26.04.2013 and notice u/s 9-10 were also issued, which was followed by Award No.6/2014-15 dated 19.03.2015. It is submitted that the acquisition proceedings have culminated under the Act, 1894 and no benefit can be given to the petitioner under Act, 2013. Neither the possession of the subject land could be taken nor the compensation be paid as petitioners are claiming relief of (1-00) out of khasra number 260 min”.

7. During the course of hearing, counsel for the LAC is unable to dispute the facts that this case would also be covered by the decision of **Sunil Goel & Ors.** (supra), although various objections have been taken and it is submitted that the petitioner is not entitled to relief so claimed.
8. Counter affidavit has also not been filed by the respondent/DDA.
9. We have heard learned counsel for the parties.
10. The case of the petitioner in our view is fully covered by the decision rendered in the case of **Sunil Goel & Ors.** (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	28/04/1995	
Date of Section 6 & Section 17 notification	26/04/1996	
Date of stay granted by High Court in another connected matter	16/05/2000	
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	21/03/2012	

quashing the declaration u/s 6 & urgency clause u/s 17 of the Land Acquisition Act, 1894		
Declaration u/s 6	26/04/2013	1year 1 month 5 days
Total time lapse		1 Year 2 months 5 days

11. Considering the time line, there is 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 stay granted by the Court i.e. one month from 09.07.2007 to 09.08.2007 before the period of stay granted by the Supreme Court. Further a period of one year one month and 5 days from the date of judgment passed by the Supreme Court i.e. on 21.03.2012 to the date of declaration under Section 6 of the Act i.e. 26.04.2013. Resultantly, qua Khasra No.260(1-00) the notification dated 28.04.1995 issued under Section 4 of the Act and the fresh notification dated 26.04.2013 issued under Section 6 of the Act are quashed.

12. The writ petition is allowed.

CM No.35850/2017 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MAY 21, 2018//ssc