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

% *Date of Judgment: 17th August, 2018*

+ W.P.(C) 8478/2017

N K JAIN

..... Petitioner

Through

Mr. Samit Khosla, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through

Mr. Prashant Varma, SCGC with Ms. Shalu Goswami, Advocate for UOI. Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate, for L&B/LAC.

Mr. Arjun Pant, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE ANU MALHOTRA

G.S.SISTANI, J. (ORAL)

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioner measuring 7 bighas and 6 biswas, comprised in Mustatil no.76, Killa no.2(4-12), 9(2-14), situated in the revenue estate of village Devli, Tehsil Mehrauli, New Delhi (hereinafter referred to as 'the subject land') are deemed to have 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 the '2013 Act'), as neither compensation has been tendered to the petitioner nor possession of the subject land has been taken.
2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on

05.11.1980. The petitioner claims to have become the absolute owner of the subject land in terms of the sale deed dated 03.06.1985. Thereafter a declaration under Section 6 of the Act was made on 21.05.1985 and an Award bearing no.19/87-88 under Section 11 of the Act was rendered on 05.06.1987.

3. Counter affidavits have been filed by the DDA and LAC. As per the counter affidavit filed by the DDA, it is admitted that the physical possession of the subject land has not been handed over to the DDA. Para 3(k) of the counter affidavit filed by the DDA reads as under :

“3(k) It is submitted that the petitioner is claiming to be owners of the land bearing Khasra nno.76//2 (4-12) and 76//9 (2-14) situated in village Devli, Tehsil Mehrauli, Delhi. As per the available record, the land in question falls in the Khasra Nos.76//2 (4-2) and 9(2-14), situated in the Revenue Estate of village Devli, Tehsil Mehrauli, Delhi and the same was notified under Section 4 on 05.11.1980 and under Section 6 on 6.6.1985 for planned development of Delhi following the due process of law. After notifications under Sections 4 & 6, the land stands acquired vide Award no.19/1987-88. Physical possession of the same has not been handed over to DDA.”

4. As per the counter affidavit filed by the LAC, the amount of compensation in favour of Shri Kishan Dev Singh has been sent to RD, but the physical possession of the subject land could not be taken. Para 4 of the counter affidavit filed by LAC reads as under :

“4. That it is submitted that the lands of village Devli were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 5.11.1980 which was followed by the Notification under section 6 of the Act dated 21.5.85. The Award was also passed vide Award no.19/87-88 dated 5.6.87, however the physical possession of the subject land falling in khasra number

76//2 (4-12), 76//9 (2-14) could not be taken. As per R.D. Register the compensation amount in favour of Sh. Kishan Dev Singh is sent in RD.”

5. We have heard the learned counsel for the parties and considered their rival submissions.
6. Reading of the counter affidavits filed by the LAC and DDA leave no room for doubt that in this case neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioner, but the same has been sent to RD and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.
7. Having regard to the fact that possession of the subject land has not been taken nor compensation has been tendered to the petitioners but has been sent to RD and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act, thus, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
8. The writ petition stands disposed of.

G.S.SISTANI, J.

ANU MALHOTRA, J

AUGUST 17, 2018

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