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

+ W.P.(C) 8949/2017

% ***Date of Judgment: 27th July, 2018***

SH. SHIV KUMAR AND ORS. Petitioners
Through : Mr.Bhagwad Prasad, Adv.

versus

UNION OF INDIA AND ANR. Respondents
Through : Mr.Sharma, Adv. for respondent
no.1.
Mr.Padam Kant Saxena and
Mr.Deepak R. Dahiya, Adv. for
respondent no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE P.S. TEJI

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India seeking a declaration that all the acquisition proceedings, initiated under the Land Acquisition Act, 1894, and resulting pursuant to the Award bearing No.14/2005-06/DC (N-W) of Village Pansali, Delhi, with respect to the land bearing Khasra no.6/13(1-00), 6/24 (4-16) total land measuring 05 Bighas 16 Biswas, situated in the revenue estate of Village Pansali, Delhi, stands lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
2. Learned counsel for the petitioners submits that a notification under

Section 4 of the Land Acquisition Act (hereinafter referred to as ‘the Act’) was issued on 21.3.2003. A Section 6 declaration was made on 18.03.2004 and thereafter an Award bearing no.14/2005-06/DC (NW) of Village Pansali, Delhi, was rendered on 18.8.2005. Counsel further submits that possession of the subject land has already been taken by respondent no.1 through Land Acquisition Collector, which possession also stand transferred to respondent no.2/DDA. Counsel also contends that despite the possession having been taken and award having been passed, compensation of the acquired land has not been paid to the petitioners. It is contended that Section 24(2) of the 2013 Act is crystal clear and in case either possession has not been taken or compensation has not been tendered, the acquisition proceedings would deem to have lapsed. Counsel also contends that the subject land has not been put to use and is still lying vacant.

3. Learned counsel for the petitioner has placed reliance on para 6 of the counter affidavit filed by respondent no.1, which is extracted below:

“6. That Khasra No. 6/13 (1-00), 6/24 (4-16) total admeasuring 5 Bigha 16 Biswas situated in the revenue estate of village Pansali, Delhi were notified under Section 4 of Land Acquisition Act on 21.03.2003 followed by declaration under Section 6 of the Land Acquisition on 18.03.2004 for public purpose “Rohini Residential Scheme”. In pursuance of said notification, notices under Section 9 and 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons. The than land Acquisition Collector passed Award No. 14/2005-06 dated 17.08.2005 after considering the claims of the claimants. It is submitted that as

per records, the possession of the lands being subject matter of this petition has been taken by Government on 21.11.2005 to 23.11.2005. It is submitted that as far as Khasra No. 6/24 (4-16) is concerned the compensation has not been paid to the petitioners. As far as Khasra No. 6/13 min is concerned, the petitioners have equal (20/368) share and the compensation for the same is not paid. The details of payment of other co-owners in Khasra no. 6/13 min (3-10) as per Statement-A are as under:-

Item No. 30, Sh. Jaiki Ahmed s/o Mohammad 94/276 share paid Rs.10,13,660/- vide cheque No-280706 dated 24/12/2005.

Item No. 31, Sh. Sh. Deepak Arora s/o Sh. Inderjeet Arora 22/92 share paid Rs.4,34,991/- vide cheque No-577552 dated 16/12/2005.

Item No-32 Sh. Hilal Ahmed s/o Mohd Ahmed 28/276 share not paid.

Item No-33 Sh. Razi Ahmed s/o Mohd Ahmed 28/276 share not paid.

Item No- 34, 35, 36, 37 refers to Sh. Shiv Kumar, Sh. Satnarain, Sh. Anil Kumar and Sh. Trilok Chand respectively having 20/368 share each and the compensation have not been paid to them.”

4. Mr.Sharma, learned counsel for the respondent no.1, contends that as far as Khasra no.6/24, is concerned, compensation has not been paid to the petitioners and similar is the position with regard to the share of the petitioner with regard to Khasra no.6/13.
5. We have heard learned counsel for the parties and considered their rival

submissions. Admittedly, possession of part of the subject land was taken over by respondent no.1, however, compensation has not been tendered to the petitioners.

6. Having regard to the fact that possession of part of the subject land has been taken over but no compensation has been paid to the petitioners and since the award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioners is covered by the provisions of Section 24(2) of the 2013 Act and thus, the petitioners are 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.
7. Writ petition stands disposed of.

G.S.SISTANI, J

P.S. TEJI, J

JULY 27, 2018

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