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

Date of Judgment :19th February, 2018

+ W.P.(C) 9032/2017 & CM.APPL 36940/2017

ASHISH SINGH & ANR

..... Petitioners

Through Mr. Vishal Maan with Mr. Vishesh
Wadhwa, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

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

Mr. P.K. Saxena, 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 petitioners seeking a declaration that the acquisition proceeding with respect to land of petitioners comprised in Khasra nos.52//19 (2-8) and 74//13/1 (1-12) admeasuring 4 bighas, situated in the revenue estate of village Karala, New 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 neither possession of the subject land has been taken nor compensation has been tendered to the petitioners.

2. The necessary facts to be noticed for disposal of this writ petition are that in this case a notification under section 4 read with section 17(1) & (4) of the 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.22/2005-06 was passed on 02.01.2006.
3. It is contended by the counsel for the petitioners that the case of the petitioners is fully covered by the provisions of section 24(2) of the 2013 Act as both the conditions viz. neither the possession has been taken nor the compensation has been paid. It is contended that the counter affidavit filed by LAC confirms that neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioners.
4. Counsel for the LAC relies on para 4 of the counter affidavit, which is reproduced below :

“4. That it is submitted that the lands of village Karala 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.22/2005-06 dated 02.01.2006 however neither the possession of the subject lands falling in khasra number 52//19 min (2-8) and 74//13/1 (1-12) could be taken nor the compensation be paid.”
5. Reading of the counter affidavit filed by the LAC makes it clear that neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioners. No counter affidavit has been filed by DDA. Even otherwise, we find that since the year 2006 when the award was rendered, till date, the actual

physical possession of the subject land has not been taken. Since, neither the possession of the subject land has been taken nor compensation has been tendered to the petitioners, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.

6. The writ petition is disposed of.

CM APPL 36939/2017 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

FEBRUARY 19, 2018/ck/