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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 1st August, 2018*

+ W.P.(C) 9118/2017

JAI CHAND & ORS

..... Petitioners

Through: Mr Vishal Maan and Mr Sumit Singh,
Advs

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Adv for LAC/L&B

Mr Joginder Sukhija, Adv for R-3

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 proceedings with respect to land comprised in Khasra Nos. 1436/2 (3-12) and 1439 (4-16), total measuring 7 Bighas, situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, New Delhi (hereinafter referred 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 '2013 Act') as neither the

actual physical possession of the subject land has been taken nor the compensation in respect thereof has been paid to the petitioners.

2. Learned counsel for the petitioners further submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 27.06.1996 and a declaration under Section 6 was made on 03.03.1997. Thereafter, an award bearing no.03/1998-99 was passed on 19.02.1999.

3. Counsel for the petitioners has drawn the attention of this Court to para 7 of the counter affidavit filed by the LAC wherein it has been categorically admitted that compensation has not been tendered to the petitioners as the amount was not received in the account of the LAC from the beneficiary department. Mr Maan, submits that in view of such a categorical assertion made in the counter affidavit, one of the two ingredients of Section 24(2) of the Act would admittedly stand satisfied. Resultantly, he seeks a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed in view of Section 24(2) of 2013 Act.

4. Learned counsel appearing for the LAC also relies on para 7 of the counter affidavit filed on behalf of the LAC, which we reproduce below:-

“7. That as regards possession, it is humbly submitted that possession of the land comprised in khasra No. 1436/2(3-12) and 1439(4-16) was taken on 31.12.2013 and handed over to PWD through Land and Building Department. So far as compensation is concerned, it is humbly submitted that the compensation amount has not been received in the account of LAC, New Delhi District. Thus, the compensation amount could not be paid to the interested persons.”

It is contended by the LAC that the physical possession of the subject land has been taken but compensation in respect thereof has not been tendered, to the recorded owners.

5. Learned counsel for the DDA submits that the DDA is not a necessary party.

6. We have heard learned counsels for the parties.

7. Having heard the learned counsels for the parties and taking into account the categorical assertion made in the counter affidavit filed by the LAC that compensation has not been tendered 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 initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.

8. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 01, 2018

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