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

% *Date of Judgment: 6th August, 2018*

+ W.P.(C) 9196/2015 & CM No. 20985/2015 (stay)

VIJAY GUPTA AND ANR Petitioners

Through: Mr.B. Tripathy with Mr.Randhir Pandey,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Rajesh Kumar, Advocate for UOI.
Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for LAC/L&B.
Ms.Mrinalini Sen Gupta and Mr.Tanmay
Gupta, Advocates 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 the Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings pertaining to land of the petitioners comprised in khasra No. 840/2 min, measuring 2 Bighas, situated in the revenue estate of Village Satbari, Tehsil Mehrauli, New Delhi, 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 physical possession of the subject land has not been taken nor compensation has been paid to the petitioners.

2. In this case, a notification under Section 4 of the Land Acquisition Act 1894 was issued on 25.11.1980, Section 6 declaration was made on 27.05.1985 and thereafter an award bearing No.14/87-88 was rendered on 26.05.1987.

3. Mr. Tripathy, learned counsel for the petitioners submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.

4. Mr. Yeeshu Jain, learned counsel for the LAC submits that physical possession of the subject land could not be taken over, however, compensation was deposited in RD. Para.4 of the counter affidavit filed by LAC reads as under :-

“4. That it is submitted that the lands of village Satbari were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 25.11.1980 which was followed by the Notification under section 6 of the Act dated 27.5.1985. The award was also passed vide Award No.14/84-88 dated 26.5.1987, however neither the possession of land falling in khasra number 840/2 min (2-00) could be taken however the compensation of Rs.5233062.90 was assessed in the name of the Central Government and deposited in RD”.

5. Mr. Jain, learned counsel for the LAC has also opposed the petition on the ground that the petitioners are claiming relief based on General Power of Attorney, Will, receipt etc. which cannot confer title of the petitioners.

6. On the other hand, Mr. Tripathy learned counsel for the petitioners submits that as far as objection with regard to the ownership and title is

concerned, the case would be covered by the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi vs. Manav Dharma Trust*** and another, reported in ***2017 (6) SCC 751***.

7. The learned counsel for the DDA submits that the possession of the subject land has not been taken over. Para 3(k) of the counter affidavit filed by the DDA reads as under:-

"4. The physical possession of the land has not been handed over to the DDA by the Land Acquisition Collector (South) through L&B Department, Government of NCT of Delhi.

8. We have heard learned counsels for the parties.

9. Having regard to the observation made by the Apex Court in the case of ***Manav Dharma Trust*** (Supra), in our view the objection raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. In the case of ***Manav Dharma Trust*** (supra), the Apex Court has held as under :

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

10. Reading of the counter affidavit filed by LAC and DDA makes it abundantly clear that physical possession of the subject land could not be taken over, and the amount of compensation has not been paid to the petitioners as the same is deposited in RD.

11. Taking into consideration the submissions made and the stand taken by LAC that physical possession of the subject land has not been taken over, we are of the considered view that the ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the physical possession has not been taken over, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land is deemed to have been lapsed. It is ordered accordingly.

12. However we make it clear that this order would not confer any title on the petitioners. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.

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

CM No. 20985/2015 (stay)

14. In view of the order passed in the writ petition the present application is rendered infructuous.

15. Application stands disposed of.

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G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

**AUGUST 6, 2018
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