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

% *Date of Judgment: 11th September, 2018*

+ W.P.(C) 10455/2017

RAJENDER SINGH

..... Petitioner

Through: Mr.Sunil K.Goel, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr.Yeeshu Jain, standing counsel for
LAC/L&B with Ms.Jyoti Tyagi, Adv.
Mr.Ajay Verma, senior standing
counsel for DDA with Ms.Mansi
Bajaj and Ms.Nidhi Tyagi, Advts.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

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 comprised in Khasra no.274 (02-14), 276/2 (02-00), 277/1 (01-08), 277/3 (00-07), 299 (05-17), total land measuring (13-06), having 1/4th share (measuring 03 Bigha 07 biswas), situated in the revenue estate of village Ghonda Gujran Khadar, Shahdra, 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 compensation has not been tendered to the petitioner although possession of part of the 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 23.06.1989. A Section 6 declaration was made on 20.06.1990 and thereafter, an Award bearing no.08/1992-93 was rendered.
3. Counsel for the petitioner submits that in this case compensation has not been tendered to the petitioner although possession of part of the land has been taken and thus, the petitioner is entitled for a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed.
4. Counter affidavit has been filed by the LAC. Para 5 of the counter affidavit filed by the LAC reads as under:

“5. That it is submitted that for the purpose of planned development of Delhi, the answering respondent issued a Notification u/S. 4 of the Land Acquisition Act, 1894 on 23.06.1989 which was followed by Notification u/s 6 of the said Act dated 20.6.1990 for planned development of Delhi for the acquisition of the lands falling in village Ghonda Gurjan Khadar. However from the records, it appears that for the Khasra number 274 (2-14), 276/2 (2-00), 277/3 (0-07), 299 (5-17) no notification was issued even not acquired vide Award No.08/1992-93. The possession report however reflected that the possession of khasra number 277/1 (1-08) was duly taken and handed over to the requisition agency on the spot on 21.3.2007. That an Award bearing no.8/92-93 dated 19.06.1992 was also passed however the recorded owner/s never came forward to receive any compensation.”

(emphasis added)

5. Mr. Yeeshu Jain, learned counsel for the LAC submits that possession of Khasra no. 277/1 (1-08) has been taken but possession with respect to the balance land has not been taken. However, he fairly admits that the compensation has not been tendered to the petitioner as the petitioner never turned up to receive the compensation.
6. Counter affidavit has also been filed by the DDA, Para 6 of which is reproduced as below:

“6. It is submitted that the possession proceedings (Kabza Karvahi) of Khasra No.277/1 (1-08) was undertaken on 21.03.2007 and transferred to JE/SDV/ED-2 on 19/9/2007. However, Khara Nos. 274 (2-14), 276/2 (2-00), 277/3 (0-08), 299 (5-17) were not acquired for DDA. It is further submitted that khasra 277/1 falls in Zone ‘O’ which as per the Zonal Development Plan is only to be developed as “Green” and as per Naksha Mutzamin, the land belongs to “Abadi”.”
7. We have heard the learned counsels for the parties and considered their rival submissions.
8. Reading of the counter affidavits filed by the LAC and DDA leaves no room for doubt that compensation has not been tendered to the petitioner and physical possession of the entire subject land has also not been taken and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.
9. Having regard to the fact that compensation has not been tendered to the petitioner 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. However, as prayed, petitioner would only be entitled for compensation, which shall be paid to him within one year from today.

10. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 11, 2018

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