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

Date of Judgement: 14th September, 2018

+ **W.P.(C) 10411/2017**

SHRI DARSHAN LAL

.....Petitioner

Through: Anuj Kumar Garg & Pooja Yadav
Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Manish Mohan, CGSC, Advocate for
UOI
Mr. Rajneesh Sharma, Advocate for
LAC/L&B
Mr. Joginder Sukhija and Ajay Varma,
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 petitioner seeking a declaration that the acquisition proceedings with respect to (01-17) land comprised in Khasra No. 33/18/1 in the revenue estate of village Barwala, 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 '2013 Act'), as although the physical possession has been taken by the Respondent, however the compensation in respect thereof has not been paid to the petitioner.

2. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003, a Declaration under Section 6 of the Act was issued on 19.03.2004 and an Award bearing No.12/2005-06 was passed on 05.08.2005.
3. Mr. Anuj Kumar Garg, learned counsel for the petitioner submits that the physical possession of the subject land has been taken, however, the compensation in respect thereof has not been paid, therefore the Petitioner would be entitled to a declaration under Section 24(2) of the 2013 Act. He further submits that his submission is further fortified by the stand taken by the LAC in the counter affidavit.
4. Mr. Rajneesh Sharma, learned counsel for the LAC submits that possession of the land has been taken over, however, the compensation has not been paid to the record owners. Para 6 of the counter affidavit filed by the LAC reads as under :

“6. That land admeasuring 1 Bhiga 17 Biswas comprised in Khasra No. 33/18/1 admeasuring situated in the revenue estate of village Barwala, Delhi was notified under section 4 of Land Acquisition Act on 21.03.2003 followed by declaration under section 6 of Land Acquisition Act on 19.03.2004 for public purpose “Rohini Residential Scheme”. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting claims from all the interested persons and claims were also filed by the interested persons. The then land Acquisition Collector passed

Award No. 12/2005-06 dated 05.08.2005 after considering the claims of the claimants. It is submitted that as per records, the possession of the land being subject matter of this petition has been taken by Government on 06.10.2005. That as per records, the compensation has not been paid to the record owner.”

5. The Counter Affidavit has been filed by the Respondent No.3/Delhi Development Authority, and the relevant portion is produced hereinafter-

“8. It is further stated that- the same was acquired vide Award No. 12/2005-2006/DC/NW and the physical possession of the same was taken over and was handed over to the Delhi Development Authority by the LAC, Govt. NCT of Delhi in accordance with the law on 06.10.2005 It is further stated that the same has been transferred to the Rohini Project Division-IV for Rohini Residential Scheme on 20.12.2005. the land in question falls in Sector 36 of Rohini Residential Scheme and has already been utilized under the Road and Plotted Development”

6. We have heard the learned counsel for the parties and considered their rival submissions.
7. Having regard to the categorical stand taken in the counter affidavit filed by the LAC & Delhi Development Authority that possession of the subject land has been taken and the land has been further utilized for Rohini Residential Scheme, however, the compensation in respect thereof has not been tendered to the petitioner and since the award has been announced five years prior to the commencement of the 2013 Act, in our view, the petitioner is

entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. Counsel for the petitioners has only prayed for compensation as per the Act of 2013. It is ordered accordingly. Compensation be paid to the petitioners within one year from today.

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

G.S. SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

SEPTEMBER 14, 2018.