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

% *Date of Judgment: 27th August, 2018*

+ W.P.(C) 10266/2017

SHRI SATWANT SINGH AND ORS. Petitioners

Through Mr. N.S Dalal, Advocate.

versus

LAND AND BUILDING DEPARTMENT AND ANR.

..... Respondents

Through Mr. R.K. Sharma, Advocate for
L&B/LAC.

Mr. Dhruv Tamta, Advocate for DDA.

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 petitioners under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioners comprised in Khasra no.54/15/2 measuring 1 bigha 7 biswas, having 1/4th share, situated in the revenue estate of village Rithala, 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 petitioners although possession of the subject 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 followed by

a Section 6 declaration. An Award bearing no.1016/1985-86 was rendered on 10.09.1985.

3. Counsel for the petitioners submits that in this case compensation has not been tendered to the petitioners and thus, petitioners are 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 7 of the counter affidavit filed by the LAC reads as under:

“7. That Khasra No.54//15/2 total admeasuring 1 bigha 7 biswas situated at the revenue estate of village Rithala New Delhi was notified under section 4 of Land Acquisition Act and followed by declaration under section 6 of Land Acquisition Act for public purpose i.e. for planned development of Delhi. In pursuance of said notifications, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were filed by the interested persons. The then Land Acquisition Collector passed Award no.1016/1985-86 dated 10.09.1985 after considering the claims of the claimants. It is submitted that the possession of the lands being subject matter of this petition has been taken by Government on 19.09.1985 but the compensation of Rs.6,377/- has been paid to Sh. Karam Singh s/o Sh. Bhim Singh (1/4th share) vide voucher no.145 dated 22.11.2004. It is submitted that compensation has not been paid to the predecessors of petitioners (recorded owner) as per the records of answering respondent.”

5. We have heard the learned counsels for the parties and considered their rival submissions.

6. Reading of the counter affidavit filed by the LAC leaves no room for doubt that compensation has not been tendered to the petitioners and thus, one of the two necessary ingredients of Section 24(2) of 2013 Act is accordingly met.
7. Having regard to the fact that no compensation has been tendered to the petitioners 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 petitioners are 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.
8. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 27, 2018

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