

\$~27

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

Date of Judgement: September 14, 2018

+ **W.P.(C) 10429/2017**

SANJEETA CHHABRAPetitioner

Through: Mr. Ankit Banati, Advocate.

versus

UNION OF INDIA AND ORS.Respondents

Through: Ms. Sangita Rai, SCGC with
Mr. Pradeep Singh Tomar, Advocates
for UOI

Ms. Mrinalini Sen with Ms. Kritika
Gupta, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, 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 3468 square yards of land comprised in Khasra No. 666 situated in the revenue estate of village Neb Sarai, Tehsil Hauz Khas, 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 neither the physical possession has been taken nor compensation has 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 05.11.1980, a Declaration under Section 6 of the Act was issued on 21.05.1985 and an Award bearing No. 12/87-88 was passed on 20.05.1987.
3. Mr. Ankit Banati, learned counsel for the petitioner submits that since the physical possession of the subject land has not been taken and the compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration that the acquisition proceedings are deemed to have lapsed under Section 24(2) of the 2013 Act.
4. Mr. Yeeshu Jain, learned counsel for the LAC admits that the physical possession of the subject land could not be taken. However, the compensation was sent in RD and the petitioner has not placed on record any document to show that he had actually applied for release of compensation or that he was aggrieved due to non-payment of compensation. Para 5 of counter affidavit filed by LAC reads as under-

“That it is submitted that the lands of village Neb Sarai were notified vide notification under section 4 of the Land Acquisition Act, 1894 dated 05.11.1980, declaration u/s 6 was issued on 21.05.1985. The award was also passed vide award No. 12/87-88 dated 20.05.1987 and the possession of the subject land falling in khasra No. 666(3468 sq. Yards) could not be taken. However, the compensation of total amount 81028938 was sent in RD vide No. 648 dated 29.03.1988 and the said amount was

withdrawn for the Award No. 01/1993-94 of village Kakrola, pertaining to circle(PN) vide RV No. 436 dated 07.05.1993. However, the compensation was sent in RD, whereasthe petitioner has also not filed any document to show that he actually applied for release of compensation and/or he was ever aggrieved due to alleged non payment of compensation.”

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

“The land admeasuring in 3468 square yards out of part Khasra No. 666(5-1) situated in the revenue village of Neb Sarai(‘land in question’), New Delhi was notified u/s 4 of the Land Acquisition Act, 1894(old Act) vide Notification No. F9(16)80L&B dated 05-11-1980, which was followed by a notification No. F9(17)85L&B dated 21-05-1985 u/s 6 of the old Act. Thereafter the Award No. 12/87-88 was passed which included the land in question herein. It is submitted that an amount of Rs. 100 Crore(Rupee One Hundred Crore only) was remitted by the Central Govt. to the Land & Building Department/Respondent No. 2 herein, as compensation for 13 villages situated in South Delhi which includes village Neb Sarai. However the possession of the land in question has not been handed over to the answering Respondent (emphasis added)”

6. We have heard the learned counsel for the parties and considered their rival submissions.
7. Having regard to the submissions made and the stand taken by the LAC in the counter affidavit, we are of the considered view that the

necessary ingredients for the application 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 neither the possession of the subject land has been taken nor compensation has been paid to the petitioners, in our view, 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. However, we made it clear that we have not expressed any opinion on the title of the subject land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
9. The writ petition stands disposed of in above terms.

SANGITA DHINGRA SEHGAL, J

G.S.SISTANI, J.

SEPTEMBER 14, 2018

//gr