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

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

+ W.P.(C) 9707/2015

RAMESH CHANDER DABAS & ORS.

..... Petitioners

Through: Mr.Rajesh Gupta, Mr.Harpreet Singh,
Mr.Pranjal Saran, Ms.Shaheen and
Mr.M.C.Verma, Advts.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Rajesh Kumar, Adv. for UOI.
Mr.Yeeshu Jain, standing counsel for
LAC/L&B with Ms.Jyoti Tyagi, Adv.
Mr.Arjun Pant, Adv. 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 petitioner 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.25//12 (04-04) and 25//19 (04-16), situated in the revenue estate of village Mubarakpur Dabas, 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 neither the compensation has been tendered to the petitioners nor physical possession of the subject land has been taken.

2. It is the case of the petitioners that notifications under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003. Thereafter a Section 6 declaration was made on 19.03.2004. An Award bearing no.16/2005-06/DC-(NW) was rendered on 14.09.2005. Counsel for the petitioners relies on counter affidavit filed by the LAC, more particularly, paragraph 5 wherein it has been averred that none had approached the LAC for accepting the compensation.
3. Counsel for the petitioner further submits that the decision of the Constitution Bench would have no bearing in the present case, as admittedly, the compensation has not been tendered to the petitioner.
4. Counter affidavit has been filed by the LAC. Para 5 of counter affidavit filed by the LAC reads as under:

“8. That the present writ petition is liable to be dismissed as the actual vacant physical partial possession i.e. (2-08) out of the total land i.e. (4-16) falling in khasra number 25//19 has been taken by the answering respondent and handed over to the DDA on the spot on 4.4.2006 by preparing possession proceedings on the spot whereas left out land of said khasra number i.e. (2-08) and land falling in khasra number 25//12 (4-04) could not be taken. The petitioners however never turned up to receive the compensation for the land, the possession of which was taken, stated supra.”
5. Mr. Yeeshu Jain, learned counsel for the LAC submits that part possession i.e. (2-08) out of the total land i.e. (4-16) falling in Khasra No.25//19 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 petitioners never turned up to receive the same.

6. We have heard the learned counsels for the parties and considered their rival submissions.
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that no compensation has not been paid to the petitioners and thus, one of the two ingredients of Section 24(2) of 2013 Act is accordingly met.
8. Having regard to the fact that the compensation has not 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 petitioners 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.
9. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 27, 2018

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