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

Date of Judgement: 8th March, 2018

\+ **W.P.(C) 10861/2017, CM No. 44480/2017**

JASBIR SINGH .....Petitioner

Through: Mr. Sunil Goel with Mr. Lalit Kumar Rawal, Advocates.

Versus

GOVT. OF NCT OF DELHI AND ORS. .....Respondents

Through: Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocates for L&B/LAC.
Mr. Nikhil Rohatgi with Mr. Shashank Khurana, Advs. for DDA.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (Oral)

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.

2. 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 (01-00) 1/72th share of the land comprised in Khasra No. 89/3/1(07-16) and 89/3/2(64-05) admeasuring 72 Bighas 01 Biswa situated in the revenue estate of village Ghonda Gujran Khadar Shahdra, Delhi (hereinafter referred to as 'the subject land') is 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 of the subject land has been taken nor compensation has been paid to the petitioner.

3. 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 23.06.1989, a Declaration under Section 6 of the Act was issued on 20.06.1990 and an Award bearing No.8/92-93 was passed on 19.6.1992.

4. Mr. Sunil K. Goel, 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 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. Learned counsel further relies on the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi Vs. Manav Dharma Trust and another,*** reported in ***2017 (6) SCC 751***, in response to the stand taken by LAC in the counter affidavit that the petitioner has no *locus standi* to file the present petition as he is not the recorded owner. Reliance is placed on para 28 of this judgment which reads as under:-

> *"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of*

Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

5. On the other hand, Mr. Yeeshu Jain, learned counsel for the LAC has raised an objection that predecessor-in-interest of the petitioner were not the recorded owner of the subject land and the Gaon Sabha was shown as the recorded owner in the revenue records, hence the petitioner has no right over the subject land. Learned Counsel further submits that the petitioner is claiming the benefits under Section 24(2) of the 2013 Act based on GPA, will receipt etc which cannot confer title on the petitioner. In support of his submissions, counsel for LAC relies on para 6 of the counter affidavit, which read as under:

"6. That it is submitted that for 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 Gujran Khadar. That an Award No. 8/92-93 dated 19.6.1992 was also passed and the actual vacant physical possession of the subject land falling in khasra number 89/3/1 (7-16) and 89/3/2(64-05) was taken on spot by preparing possession proceedings dated 21.3.2007 and handed over to the DDA on the spot whereas the compensation was assessed in the name of Gaon Sabha as the recorded owner of the subject land was shown to be Gaon Sabha."

6. We have heard the counsel for the parties.

7. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioner is misplaced in view of the observations made by the Supreme Court in ***Manav Dharma Trust (supra)*** where the rights of the subsequent purchaser have been recognised.

8. As far as the objection with regard to maintainability is concerned, we find the same to be misplaced in view of the observations made by the Supreme Court in the case of ***Manav Dharma Trust (supra).*** Accordingly, the submissions made by the counsel for the LAC that the petitioner has no *locus standi* to file the present petition as he is the subsequent purchaser, holds no ground.

9. In relation to the objection raised by the counsel for the LAC with regard to the land being vested in the Gaon Sabha is concerned, we deem it appropriate to follow a decision rendered by the Division Bench of this Court in the case of ***Sanjeev Solanki Vs. Delhi Development Authority and Ors***, ***W.P. (C) 1999/2015,*** decided on 24.01.2017, paragraph 5 of which reads as under:-

> *"5. While we have declared that the subject acquisition has lapsed, it is made clear that this would not amount to giving title to the petitioner or perfecting the petitioner's title inasmuch as Mr.Jain has taken the plea in the counter-affidavit filed on behalf of the respondent no.2 that the Gaon Sabha has been shown as the recorded owner. This fact is disputed by the learned counsel for the petitioner. But,*

we are not entering into the controversy of title which may be sorted out elsewhere. Insofar as the acquisition is concerned, the same has lapsed because neither physical possession was taken over nor compensation was paid."

10. As per the counter affidavit filed by LAC, it is clear that the possession of the subject land has been taken on 21.03.2007 which is disputed by the counsel for the petitioner. As far as payment of compensation is concerned, counsel for LAC submits that the the compensation with respect to 1 Bigha i.e. 1/72th share of the total land admeasuring 72 Bighas 01 Biswas comprised in Khasra No. 89/3/1(07-16) and 89/3/2(64-05) has not been tendered to the petitioner as being assessed in the name of Gaon Sabha.

11. Having regard to the submissions made in the counter affidavit filed by LAC that the compensation has not been paid in respect of the entire area of the subject land and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration under Section 24(2) of the 2013 Act that the acquisition proceedings initiated under the Act with regard to that portion of the subject land in respect of which compensation has not been paid, are deemed to have lapsed. It is ordered accordingly.

12. However, we make 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.

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

C.M. 44480/17 (Stay)

14. The application is disposed of in view of order passed in the writ petition.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

MARCH 8, 2018//gr

HIGH COURT OF DELHI
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