

\$~50

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

*Date of Judgement: 10<sup>th</sup> October, 2018*

+ **W.P.(C) 19/2018**

VIKAS

.....Petitioner

Through: Mr. Sunil K Goel, Advocate.

Versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. B Mahapatra, Advocate for Govt of  
NCT of Delhi.

Mr. Yeeshu Jain Standing Counsel with  
Ms. Jyoti Tyagi, Advocates for  
LAC/L&B.

Mr. Arjun Pant, 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 is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to (00-10) 1/144<sup>th</sup> 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 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 actual physical possession of the

Signature Not Verified  
Digitally Signed  
By:AMULYA

subject land has been taken nor the compensation in respect thereof has been paid to the petitioner.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 23.06.1989 and a declaration under Section 6 was made on 20.06.1990. Thereafter, an Award bearing no. 8/1992-93 was passed on 19.06.1992.
3. Mr. Sunil K Goel, learned counsel for the petitioner submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus 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 at **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 compensation 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."*

4. Mr. Yeeshu Jain, learned counsel for the LAC has raised an objection that predecessor-in-interest of the petitioner was 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 on the subject land. In support of his submissions, counsel for LAC relies on paragraph 5 and 6 of the counter affidavit, which reads as under:-

*"5. That the present writ petition is liable to be dismissed as the predecessor-in-interest of the petitioner were not the recorded owner of the subject land but the Gaon Sabha was shown as the recorded owner of the subject land falling in khasra number 89/3/1 and 89/3/2, village Ghonda Gujran Khadar. The writ petition is also liable to be dismissed as the petitioners have not placed on record any document which allegedly asserted their alleged rights as 1/144<sup>th</sup> in the subject land. No Surviving Membership Certificate has been filed along-with the writ petition."*

*"6. That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 23.6.1989 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 lands falling in khasra number 89/3/1 (7-16) and 89/3/2 (64-05) was taken on the 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."*

5. The counter affidavit has been filed by the Respondent No.3/Delhi Development Authority and the relevant portion is reproduced hereinafter:-

*"(k) ...The physical possession of the land bearing Khasra No. 89/3/1 (7-16) and 89/3/2 (61-05), village Ghonda Gujran Khadar, Shahdra Delhi was handed over to the DDA by the LAC/L&B Department, Govt. of NCT of Delhi on 21.03.2007 and the land was further transferred to J.E./SDV/ED-2 on 19.9.2007. it is further submitted that the amount of compensation for the Award to the tune of Rs. 4,10,04,583/- (Rupees Four Crore Ten Lakh Four Thousand Five Hundred Eighty Three only) was paid vide Cheque No. 088808 dated 28.2.2007 to the Land & Building Department, Govt. of NCT of Delhi. Copy of the possession proceedings are annexed as ANNEXURE-1. Copy of Naksha Muntjamin showing the land as Gam Sabha is annexed as ANNEXURE-2. As such the petitioner was not entitled to receive any compensation."*

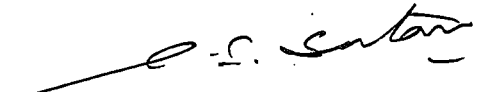
6. We have heard learned counsels for the parties and considered their rival submissions.
7. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections 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 predecessor-in-interest/subsequent purchaser have been recognized.

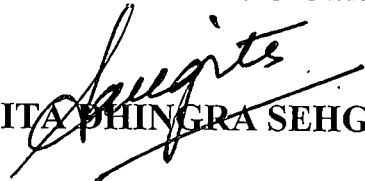
8. As far as the objection with regard to maintainability is concerned, we find the same to be misplaced in view of the observations made by the Supreme Court in the case of *Manav Dharma Trust (supra)*. We are of the considered view that, the submissions made by the counsel for the LAC that the petitioner has no *locus standi* to file the present petition as the predecessor-in-interest of the petitioner was not the recorded owner of the subject land, 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, the possession of the subject land has been taken on the spot by preparing possession proceedings on 21.3.2007 and the compensation of the subject land has not been tendered to the petitioner as being assessed in the name of Gaon Sabha.
11. Having regard to the averments made in the counter affidavit filed by LAC that the compensation has not been paid in respect 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 the subject land are deemed to have been 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.



G.S.SISTANI, J.



SANGITA BHINGRA SEHGAL, J

**OCTOBER 10, 2018**