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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgment: 16th October, 2018

+ W.P.(C) 9603/2015

SURENDER SINGH

.....Petitioner

Through: Mr. Akhil Sachar, Advocate.

versus

LT. GOVERNOR, NCT OF DELHI & ORS.Respondents

Through: Ms. Jyoti Tyagi, Advocate for L&B / LAC.
Mr. Akash Yadav with Ms. Beeashaw N. Soni,
Advocates 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 400 square yards land of the petitioner comprised in Khasra No.38/10, situated in the revenue estate of village Prehlad Pur Bangar, New 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 physical possession of the 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 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award bearing No. 06/2005-06 was passed on 27.06.2005.
3. Mr. Akhil Sachar, 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, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act.
4. Ms. Jyoti Tyagi, learned counsel for the LAC submits that the possession of the subject land was taken over on 31.08.2005 and was further handed over to the DDA on the spot by preparing possession proceedings, however, the compensation has not been tendered to the recorded owner. The learned counsel further submits that the petitioner is not the recorded owner of the subject land as he is claiming the title of the subject land on the basis of GPA/Agreement to Sell/Will etc. Relevant Para. of the counter affidavit filed by LAC reads as under:-

"4. That the present writ petition is liable to be dismissed as the petitioners have not approached the Hon'ble Court with the clean hands and have suppressed the material facts that the government has taken the actual physical possession of the subject land. The writ petition is further liable to be dismissed as the petitioner is not the recorded owner of the subject land falling in Khasra No. 38/10 but is claiming a relief of 400 sq. yds on basis of

GPA/ agreement to sell/ will etc. the said documents are not admissible for the purpose of conferring title of the subject land to the petitioner.

9. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 21.03.2003 which was followed by the Notification under Section 6 of the Act dated 19.03.2004. The Award was also passed vide Award No. 6/05-06 dated 12.07.2005 and also the possession of the subject land falling in various khasra numbers was taken on 31.08.2005 with the help of demolition squad on the spot and handed over to the DDA by preparing Possession Proceedings on the spot. The compensation was not paid to the recorded owner”

5. Counter Affidavit has also been filed by DDA. Relevant Para is re-produced as under:-

"f... I say that the present writ petition is not maintainable and is liable to be dismissed on the ground that the petitioner has claimed to be the owner of the land measuring 400 sq. yds in Khasra No. 38/10 of village Pehladpur Bangar being the legal hier of deceased Sh. Budh Singh who purchased the same through GPA and agreement to sell dated 03.03.1988 from Sh. Hari Om, who was also the purchaser of the same on the basis of GPA and agreement to sell dated 17.06.1987 from Sh. Rama Arora, the recorded owner of the same. Therefore the petitioner has no locus to file the present writ petition challenging the acquisition proceedings or to allege that no compensation has been paid. The petition is liable to be dismissed on this ground alone.

“j... I say that the physical possession of the acquired land falling in Khasra No. 38/10 (4-05) situated in village Pehladpur Bangar has not been handed over to the respondent No. 3 Delhi Development Authority by the LAC/ L&B Department, GNCTD.”

6. Ms. Tyagi, learned counsel for the LAC further submits that the petitioner herein have not placed on record any document so as to claim their rights, title or interest in the subject land, as that of recorded owners.
7. On the other hand, Mr. Akhil Sachar learned counsel for the petitioner submits that as far as objection with regard to the ownership and title is concerned, the case would be covered by 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**.
8. We have heard learned counsels for the parties and considered their rival submissions.
9. 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 observation made by the Supreme Court in ***Manav Dharma Trust (supra)*** where the rights of the subsequent purchaser have been recognized.
10. 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 they are the subsequent owners of the subject land, holds no ground.

11. Having regard to the submissions made in the counter affidavit filed by the LAC that the compensation in respect of the subject land has not been paid to the petitioner 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 relation to the subject land, are deemed to have lapsed. It is ordered accordingly. Compensation be paid within one year from today.
12. However we make it clear that this order would not confer any title on the petitioner. 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 DHINGRA SEHGAL, J

OCTOBER 16, 2018

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