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

% *Date of Judgment: 15th March, 2018*

+ W.P.(C) 835/2016

RAM BABU

..... Petitioner

Through: Mr. S.K. Rout and Mr. Aman
Mehrotra, Advocates

versus

UNION OF INDIA AND ORS

.... Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. Kushal Raj Tater and
Mohd Suieb, Advocates for L&B/
LAC.
Mr. Padam Kant Saxena, Mr. Deepak
Dahiya and Ms. Aayushi Saxena,
Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India. The petitioner seeks a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra no.1180 measuring (0-4), situated in the revenue estate of village Naraina, New 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 the '2013 Act').

2. Learned counsel for the petitioner submits that Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued in this case on 13.11.1959, a declaration under Section 6 was made on 02.01.1969. Thereafter, an Award bearing no.32/79-80 was rendered on 12.02.1980. It is the case of the petitioner that on a reference made under Sections 30-31 of the Act bearing LAC no.14/09/82 on 28.01.1982, the claim under Sections 30-31 of the Act was decided by the Court of ADJ with respect to 13 biswas of land out of a total 17 biswas of land. It is the case of the petitioner that neither compensation with respect to the balance 4 biswas has been tendered nor physical possession has been taken as the area is built-up. Reliance is placed on the observations made by the Court of ADJ while deciding the reference petition, more particularly, para 56, which is reproduced below:

“56. Issue No.2: Relief:

Land in question is 17 biswa. Compensation is deposited with regard to 17 biswa of land. It has come on record that possession of 4 biswa of land being a residential structure in possession of IP No.9 has not been taken over till date. Therefore, proportionate compensation only for 13 biswa of land would be granted to IP No.9. The counsel for IP No.9 also agreed during arguments that compensation with regard to 13 biswa be granted to IP No.9 as possession of 4 biswa of land being built up residential structure is in possession of IP No.9. Resultantly, it is ordered that IP No.9 would be given compensation for 13 biswa of land and compensation for 4 biswa of land along with accrued interest be sent back to LAC.”

3. Reliance is placed on the counter affidavit filed by the LAC in support of the above submission.

4. Counsel for the LAC submits that out of a total area of 17 biswas, possession of 4 biswa subject matter of the present writ petition could not be taken as the area was built-up and the compensation could not be tendered. Similar stand is taken by the counsel for the DDA.
5. Para 5 of the counter affidavit filed by the LAC, reads as under:

“5. That as per the record the land in question i.e. khasra No.1180/1/2(0-17) situated at the revenue estate of village Naraina, Delhi was notified under section 4 of the Land Acquisition Act on 13.11.1959 followed by declaration under Section 6 of the Land Acquisition Act on 02.01.1969 for Planned Development of Delhi. In pursuance of the said notification, notice under section 9 & 10 as provided under the Act, were issued to the interested persons including the predecessor(s) in interest of the present petitioners with respect to the abovesaid land in question. The then Land Acquisition Collector passed award No.32/79-80 of Village Naraina after considering the claims of Claimants. It is pertinent to mention here that due to built-up area the possession of (0-04) Biswa was not taken in respect of above said Khasra number.”

6. Having regard to the fact that possession of the subject land bearing 4 biswas could not be taken over being built-up and since the award having been announced more than five years prior to the commencement of the 2013 Act and the fact that the compensation has not been tendered to the petitioner, the case of the petitioner is covered by the provisions for the application of Section 24(2) of the 2013 Act and 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.

7. The petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MARCH 15, 2018

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