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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 1st August, 2018*

+ W.P.(C) 10773/2015

BHARAT GUPTA

..... Petitioner

Through Ms. Bina Madhavan and Ms. Swati
Bhardwaj, Advocates

versus

LT. GOVERNOR OF DELHI & ORS

..... Respondents

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

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)

CM.APPL 30695/2018(waiver of cost)

1. By the present application, counsel for the LAC seeks waiver of cost of Rs.3,500/- and Rs. 2,500/- which were imposed by this Court by the orders dated 20.03.2018 and 16.05.2018 respectively. Cost of Rs.3,500/- imposed has been paid. For the reasons stated in the application, the additional cost of Rs.2,500/- imposed by the order dated 16.05.2018 is waived.

2. The application stands disposed of.

W.P.(C) 10773/2015

3. 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 land of the petitioner comprised in Khasra No. 24 and Killa No. 25, total measuring 3 Bighas and 4 biswas, situated in Village Jharoda Majra Burari, Delhi (hereinafter referred 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 '2013 Act') as neither the actual physical possession of the subject land has been taken nor the compensation in respect thereof has been paid to the petitioner.

4. In the case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 24.07.1998 and a declaration under Section 6 was made on 04.08.1998. Thereafter, an award bearing no.05/LAC/CL/2000 was passed on 03.08.2000 under Section 11 of the Act.

5. Ms Madhavan, learned counsel appearing for the petitioner, has drawn the attention of the Court to para 4 of the counter affidavit as per which part physical possession of the subject land has been taken. As far as the payment of compensation is concerned, there is no entry in the Naksha Muntazamin regarding payment of compensation and is referred to as 'disputed'. Mr Jain, learned counsel appearing for the LAC, has also relied upon para 4 of the counter affidavit. We deem it appropriate to reproduce the same.

“4. That it is submitted that the lands of village Jharoda Majra Burari were notified vide Notification under section 4 of the Land Acquisition Act 1894 dated 24.07.1998 which was followed by Notification under section 6 of the said Act vide Notification dated 04.08.1998. That it is submitted that the Land Acquisition Collector also passed an Award No. 5/2000 dated 03.08.2000. It is submitted that the petitioner is claiming the relief of land measuring (3-04) falling in khasra number 24/25 whereas the total extent of said khasra number is (4-04) which was notified and for which the said Award also came to be passed. It is submitted that the actual vacant physical possession of (0-08) of land was taken vide possession proceeding dated 08.06.2001 and handed over to the DDA on the spot as the purpose of acquisition was for setting up of Dairy Colony Yojna under the Rural Department of GNCTD and balance land measuring (3-16) could not be taken possession of due to built up. It cannot be ascertained as to whether the land measuring 8 biswa, which was taken possession of belongs to petitioner or not as the petitioner is the owner of only (3-04). There is however no entry in Naksha Muntazamin regarding payment of compensation and it is referred to as ‘disputed’.”

6. We have heard learned counsels for the parties.

7. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that there is no entry with regard to compensation paid to the recorded owner in Naksh Muntazamin and it is referred to as ‘disputed’ and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioner is entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly.

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

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 01, 2018
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