

\$~51

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

% *Date of Judgment: 21st May, 2018*

+ W.P.(C) 1483/2016

RANJIT SINGH SETHI Petitioner

Through: Dr. Chandra Shekhar, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

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

Mr. Jagrup Singh Hazra, Advocate for
respondents no.3 to 6.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

CM.APPL 19674/2018(direction)

1. Since the counter affidavit has been filed, this application is dismissed as not pressed.

CM.APPL 21354/2018(delay)

2. By the present application, the applicant LAC prays for condonation of 22 days delay in filing the counter affidavit.
3. Notice. Counsel for the non-applicants accepts notice.
4. The prayer made in this application is not opposed. Accordingly, the application is allowed. Delay of 22 days in filing the counter affidavit is condoned.
5. The application stands disposed of.

CM.APPL 21355/2018(waiver of cost)

6. By the present application, the applicant LAC prays for waiver of cost imposed on 30.01.2018.
7. Notice. Counsel for the non-applicants accepts notice.
8. The prayer made in this application is not opposed. Accordingly, the application is allowed. Cost of Rs.3,500/- imposed on 30.01.2018 is waived.
9. The application stands disposed of.

W.P.(C) 1483/2016

10. 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 nos.2165/1523/4, 2275/1519 and 2276/1519, measuring 15876 sq. yds, situated in the revenue estate of village Tughlakabad, H-Block, Gali No.16, Ratiya Marg, Sangam Vihar, 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'), as neither the physical possession of the subject land has been taken nor the compensation has been tendered to the petitioner.
11. Counsel for the petitioner submits that the judgment of the Constitution Bench of the Supreme Court would have no impact having regard to the facts of the present case as the LAC has categorically stated in the counter affidavit that neither the possession has been taken nor the compensation has been tendered. Counsels for

the respondents are unable to dispute the submission so made by the counsel for the petitioner.

12. The brief facts required to be noticed for the disposal of the present petition are that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 05.11.1980, Section 6 declaration was made on 06.06.1985. Thereafter, an Award bearing no.18/87-88 was rendered.
13. Reliance is placed on Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to press the relief so claimed in the writ petition.
14. Counsel for the LAC submits that possession of Khasra numbers 2275/1519 (0-08), 2276/1519 (5-17) and 2165/1523 (6-10) were not taken nor the compensation has been paid. Reliance is placed on para 4 of the counter affidavit, which we reproduce below:

“That it is submitted that the lands of Village Tughlakabad were notified vide Notification under section 4 of the Land Acquisition Act 1894 dated 5.11.1980 which was followed by Notification under section 6 of the said Act vide Notification dated 6.6.1985 and an Award No.18/87-88 village Tughlakabad came to be passed in accordance with law. The possession of Khasra numbers 2275/1519 (0-08), 2276/1519 (5-17) and 2165/1523 (6-10) could not be taken nor the compensation have been paid for all three khasra numbers, stated supra as per revenue records.”

15. Reading of the counter affidavit filed by the LAC leaves no room for doubt that in the present case, neither the possession was taken nor the compensation has been tendered to the petitioner.

16. Having regard to the fact that possession of the subject land has not been taken nor compensation tendered and since the award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions 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.
17. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MAY 21, 2018

pst