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

% *Date of Judgment: 12th April, 2018*

+ W.P.(C) 10283/2015

PRADUMAN PATEL Petitioner

Through: Mr.Vishal Maan, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Sanjay Kumar Pathak, Mr.Sunil Kumar Jha and Mr.Kushal Raj Tater, Advocates for respondent / L&B/ LAC/ GNCTD.

Mr.Dhanesh Relan, Standing Counsel with Ms.Komal Sorout and Ms.Mrinalini Sharma, Advocates for respondent/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 the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings in respect of the land of the petitioner comprised in Khasra No.1428 min (1-4) total admeasuring 01 bigha 4 biswas situated in the revenue estate of village Malikpur Kohi @ Rangpuri, New Delhi (hereinafter referred to as 'the subject land') stands 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 physical possession has been taken nor compensation has been paid to the petitioner.

2. Counsel for the parties agreed that the issue before the Constitution Bench of Supreme Court of India would have no impact on the present matter as this is a case where admittedly neither physical possession of the subject land has been taken nor compensation has been paid.
3. We, accordingly, set down the matter for hearing and final disposal.
4. In this case, a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.06.1996, a Notification under Section 6 of the Act was issued on 03.03.1997 and an Award No.03/98-99 was passed on 26.02.1999. Mr.Maam, counsel for the petitioner submits that the proceedings were initiated under Section 81 of the Delhi Land Reforms Act, 1954 and the land of the petitioner was vested with the Gram Sabha vide an Ex-parte order dated 02.06.1995. Thereafter, the petitioner filed an application under Order VI Rule-14 of Code of Civil Procedure (CPC) which was allowed by an order 17.09.2008. It is also submitted by counsel for petitioner that after hearing arguments and upon perusal of reports of the *Halka Patwari* through *Naib Tehsildar* and *Tehsildar*, Vasant Vihar, New Delhi, the Id. S.D.M/R.A. (Vasant Vihar), New Delhi, by an order dated 26.09.2012 held that land in question was not used for any non-agricultural purpose by the petitioner and in fact, land in question was being used for agricultural and other connected purposes in consonance with the provisions of Delhi Land Reforms Act, 1954 and the proceedings under Section 81 of the Delhi Land

Reforms Act, 1954 were dropped against the petitioner. A copy of the order has been filed with the writ petition as annexure P-3.

5. Mr. Maan, counsel for petitioner relies on Section 24 (2) of the Act in support of his submission that since neither physical possession has been taken nor compensation has been paid, the acquisition proceedings are deemed to have lapsed.
6. Counsel for the LAC submits that the subject land is vested in Gram Sabha under Section 81 of the Land Reforms Act and, thus, no relief can be granted in favour of the petitioner.
7. Counter affidavit has been filed by the LAC. Para 9 of the counter affidavit reads as under:

“9. That as regards possession, it is humbly submitted that the possession of the total acquired land comprised in Khasra No.1428 min (4-16) was not taken. So far as compensation is concerned the compensation amount has not been received in the bank account of LAC New Delhi District. Thus, the compensation amount could not be paid to the interested persons”.

8. We have heard the counsel for the parties.
9. A reading of para 9 of the counter affidavit leaves no room for doubt that neither the physical possession of the subject land has been taken nor the compensation has been paid to the interested persons.
10. The objection raised by the LAC that the land stands vested with the Gram Sabha is misplaced in view of the order passed by S.D.M/R.A. dated 26.09.2012 by which the proceedings under 81 of the Delhi Land Reforms Act, 1954 were dropped.
11. Since, the award having been announced more than five years prior to the commencement of the 2013 Act, the possession of the land having not been taken and the compensation having not been tendered,

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. However, we make it clear that we have not expressed any opinion on the title of the land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

APRIL 12, 2018

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