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

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

+ W.P.(C) 11147/2015

RAJ RANI GARG

..... Petitioner

Through: Mr.Akhil Sachar, Advocate

versus

LT GOVERNOR, NCT OF DELHI AND ORS. Respondents

Through: Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advts. for LAC/L&B.

Mr.Dhanesh Relan and Ms.Akshita
Manocha, Advts. 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 the Constitution of India filed by the petitioner. The petitioner seeks a declaration that the acquisition proceedings initiated with respect to land of the petitioner measuring 1 bigha out of Khasra no.50/6/2 (0-06) and 50/15 (0-14) min situated in the revenue estate of village Pehladpur Bangar, National Capital Territory of 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 physical possession of the subject land has been taken nor compensation has been tendered to the petitioner.

2. Counsel for the petitioner submits that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003. A Section 6 declaration was made on 19.03.2004 and thereafter an Award bearing no.06/2005-06/DC (N-W) was rendered on 12.07.2005.
3. Counsel for the LAC has drawn the attention of the court to para 4 of the counter affidavit, as per which the possession of the land comprising in Khasra no.50//6/2 (1-04) and 50/15 (03-16) has not been taken, however, possession of land comprising in Khasra no. 50/15 (01-00) has been taken on 31.08.2005 but compensation could not be paid. The Delhi Development Authority (DDA) has also filed counter affidavit, as per which possession of part of the land falling in Khasra no.50//15 min (1-00) was handed over to the DDA by the LAC on 31.08.2005 and the possession was transferred to Engg. Department RPD-IV for Rohini Residential Scheme and the compensation has been remitted to the office of the Land and Building Department. Additionally, it is pointed out by the counsel for the DDA that the land acquired has been used for Green Belt within the Rohini Residential Scheme. While counsel for the petitioner submits that only paper possession has been taken and the petitioner continues to be in possession of the land of the entire land. Counsel for the petitioner further submits that even as per the stand of the respondents, out of the total area of 1 bigha, possession has only been taken with respect to 14 biswas and even as per the respondents compensation has not been tendered.
4. We have heard the learned counsel for the parties.

5. Paragraphs 4 of the counter affidavit filed by the LAC reads as under:
- “4. 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 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No.6/05-06 dated 12.7.2005. The possession of the land falling in khasra number 50//6/2 (1-04) and 50/15 (03-16) have not been taken. However the possession of the land falling in Khasra No- 50/15 (01-00) has been taken on 31.08.2005. The compensation for the above said land also could not be paid.”
6. Relevant portion of paragraph 4 (i) of the counter affidavit filed by the DDA, reads as under:
- “4 (i)Possession of land in question of Khasra No.50//15 min (1-00) was handed over to the DDA by the LAC/L&B Department on 31.08.2005. On the same very day on 31.08.2005 Possession of land in question was transferred to the Engg. Department RPD-IV for Rohini Residential Scheme. Possession Proceedings dated 31.08.2005 of Village Prahladpur Bangar with respect to notification of land in question acquired vide Award No.06/2005-06 are ANNEXURE R-1. Petitioner has no right, title or interest over the land subject matter of the petition and the aforesaid award has become final, binding and conclusive for all intents and purposes.”
7. Having regard to the stand taken by the respondents in their counter affidavit, it is clear that the compensation has not been tendered to the petitioner and only possession of 14 biswas has been taken which is disputed by the counsel for the petitioner. Since the compensation has not been tendered, the case of the petitioner would fall within the scope of Section 24 (2) of the 2013 Act. Accordingly, it is held that the acquisition proceedings pertaining to the land of the petitioner are

deemed to have lapsed. It is ordered accordingly. Needless to say that if the land is required by the DDA, it will be open for the LAC to acquire the land afresh considering that till date the land, possession of which has been taken, has not been put to actual use.

8. The petition stands disposed of. No other ground has been urged.

C.M.28950/2015 (stay)

9. The application stands disposed of, in view of the order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

FEBRUARY 15, 2018

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