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

Date of Judgement: 18th July, 2018

+ **W.P.(C) 11625/2015**

VEER WATI

.....Petitioner

Through: Mr. Bhagwat Prashad Gupta and
Mr. Priyanshu Aggarwal, Advocates.

Versus

THE LAND ACQUISITION COLLECTOR & ANRRespondents

Through: Mr. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Advocate for L&B/LAC.
Mr. Arjun Pant, Adv. 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 Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to land bearing Khasra No.47, situated in the revenue estate of village Kotla, New Delhi (hereinafter referred 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 admittedly neither compensation has been paid to the petitioner nor possession has been taken.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 13.11.1959 and a declaration under Section 6 was made on 20.06.1966. Thereafter, an award bearing no.19/1976-1977 was passed on 05.01.1977.
3. The counsel for the petitioner submits that since the compensation in respect of the subject land has not been paid, the petitioner would thus be entitled to a declaration under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act').
4. Mr. Yeeshu Jain, counsel for the LAC submits that actual vacant physical possession of the subject land has not been taken, however the amount of compensation was sent to RD.
5. Mr. Jain, further submits that the petitioner is claiming relief on the basis General Power of Attorney, Will, receipt etc. which cannot confer title on the petitioner.
6. Learned counsel for the petitioner submits that as far as objection with regard to the ownership is concerned, the case would be covered by the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi vs. Manav Dharma Trust*** and another, reported in **2017 (6) SCC 751**.

7. Counter affidavit has been filed by DDA, relevant portion of which reads as under:

"The physical possession of the land has not been handed over to the DDA by LAC/L&B Deptt., Govt of NCT of Delhi due to built up."

8. We have heard learned counsels for the parties.
9. Having regard to the observation made by the Apex Court in ***Manav Dharma Trust*** (Supra), in our view the objection raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. However, we make it clear that this order would not confirm any title on the petitioner. In the case of ***Manav Dharma Trust*** (supra), the Apex Court has held as under :

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

10. Para. 4 of the counter affidavit filed by LAC reads as under :-

"That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 13.11.1959 which was followed by Notification u/s 6 of the said Act dated 20.6.1966 for the acquisition of the lands falling in the khasra numbers under reference in village

Kotla. That an Award bearing no. 19/76-77 dated 5.1.1977 however the possession of subject land falling in khasra number 47(13-01) could not be taken as per record however the compensation was sent in RD. "

11. Reading of the counter affidavit filed by LAC and DDA makes it abundantly clear that the possession of the subject land has not been taken and the compensation in respect thereof has been sent to RD.
12. Taking into consideration the submissions made and the stand taken by LAC that possession of the subject land has not been taken, we are of the considered view that one of the ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the compensation has not been tendered, 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.
13. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
14. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 18, 2018 //gr