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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Judgement: 12th March, 2018

+ **W.P.(C) 11858/2015**

JAGBIR SINGH

.....Petitioner

Through: Mr. B.D. Sharma , Mr. Pramod Kumar
with Ms. Shalu Jain, Advocates.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Rajesh Kumar with Mr. Vinod
Tiwari Advs. for Union Of India.

Mr. Dhanesh Relan, Ms. Akshita
Marocha with Mr. Kajri Gupta advs. for
DDA, Mr. R.K. Sharma for adv. for
LAC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (Oral)

1. The pleadings are complete. The present Writ Petition is set down for final hearing and disposal.
2. 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 comprised in Khasra No. 52/24 admeasuring 04 Bighas 16 Biswas situated in the revenue estate of village & Post Office Prehladpur Banger, Delhi, (hereinafter referred as the 'subject land') stand 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 compensation has been paid to the petitioner nor the possession has been taken with respect to the subject land.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 27.10.1999 and a declaration under Section 6 was made on 03.04.2000. Thereafter, an Award bearing no. 14/2002-03 was passed on 08.07.2002 with respect to the subject land.
4. Mr. B.D. Sharma, learned counsel for the petitioner submits that neither the possession of the subject land has been taken nor the compensation was paid to the petitioner. In these circumstances, the acquisition proceedings are deemed to have lapsed.
5. Mr. Yeeshu Jain, learned Counsel for LAC submits that the possession of the subject land has been taken over from the land owners on 09.05.2000 but no compensation with regard to the subject land has been paid to the recorded owners. Para 6 of the Counter affidavit filed by the LAC, reads as under :-

"6. That Khasra No. 52/24 admeasuring 4 Bigha 16 Biswas situated in the revenue estate of village Prehladpur Banger, Delhi were notified under Section 4 of land Acquisition act on 27.10.1999, followed by declaration under Section 6 of Land Acquisition Act on 03.04.2000 for public purposes. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons. The than Land Acquisition Collector passed Award No. 14/2002-03 dated 08.07.2002 after considering the claims of the claimants. It is submitted

that as per records, the possession of the lands being subject matter of this petition has been taken by Government on 09.05.2000 and compensation has not paid to the recorded owner.”

6. Further, the Counter affidavit has also been filed by the DDA wherein it has been categorically stated that the subject land has been handed over to DDA by LAC and thereafter transferred to the Engineering Department. The relevant portion of the counter affidavit reads as under :-

"ii) Possession of land in question of Khasra No. 52/24(4-16), was handed over to the DDA by the LAC/L&B Department and on the same very day possession of the land in question was transferred to the Eng, Department.xxxx

iii) As regards payment of compensation, it is submitted that the DDA has already remitted the payment of compensation in the sum of Rs. 50 crores vide cheque No. 282364 dated 3-12-1999, Rs. 100 Crores vide cheque No. 033657 dated 3.12.99 and cheque No. 86821 dated 24.03.2003 in the sum of Rs. Rs. 130,80,17,600/- to the Land and Building Department in respect of Award of the land in question of Village Prahladpur Bangar for disbursement among the eligible persons interested land owners.”

7. We have heard learned counsel for the parties.
8. Taking into consideration the averments made in the counter affidavit filed by LAC as well as DDA , it is clear that the actual physical possession of the subject land was taken over by LAC on 09.05.2000 and handed over to the DDA. The possession of the subject land was further transferred by the DDA to the Engineering Department and the same has been utilized for the purpose of

Rohini Residential Scheme. Accordingly, the submission made by the counsel for the petitioner that actual physical possession of the subject land has not been taken is without force. As far as payment of compensation is concerned, learned counsel for LAC submits that the compensation has not been paid to the petitioner. Having regard to the submissions made and categorical assertion made in the counter affidavit filed by the LAC that the compensation has not been tendered to the petitioner, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. However, as the possession of the subject land has been taken, the petitioner would only be entitled to compensation as per the New Act. Compensation be released within one year from today. It is ordered accordingly.

9. The writ petition stands disposed of in the above terms.

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G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 12, 2018

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