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

+ **W.P.(C)1913/2016**

JITENDER KUMAR AGGARWAL & ORSPetitioners

Through: Mr. Rajesh Gupta, Mr. Harpreet Singh, Mr. MC Verma, Mr. Pranjali Sarawan, Advocates.

versus

UNION OF INDIA & ORSRespondents

Through: Ms.Astha Tyagi, Advocates for LAC/L&B.

Mr. Sanjeeb Kumar Mohanty, Sr. Panel Counsel with Mr. Amit Acharya for UOI.

W.P.(C)1914/2016

JITENDER KUMAR AGGARWAL & ORSPetitioners

Through: Mr. Rajesh Gupta, Mr. Harpreet Singh, Mr. MC Verma, Mr. Pranjali Sarawan, Advocates.

versus

UNION OF INDIA & ORSRespondents

Through: Mr. Rajneesh Sharma for LAC/L&B.

Mr. Sanjeeb Kumar Mohanty, Sr. Panel Counsel with Mr. Amit Acharya for UOI.

Ms. Shobhna Takair for DDA.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE I. S. MEHTA

ORDER
12.03.2019

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1. These petitions have been filed, *inter alia*, praying for the same relief and are being disposed of by a common order. Nevertheless, these petitions have been heard separately.

2. The prayers in the present petitions read asunder:

“(I) Issue writ of DECLARATION and/or any other appropriate Writ, Order or Direction in the like nature declaring the impugned acquisition proceedings commenced vide notification under Section 4 of Act 1894 bearing no.F.10(43)/96/L&B/LA/3172 Dated 23.05.2002 resulting in Award no. 16/2003-04 for Village Holambi Kalan Delhi vis-a-vis subject lands (detailed in Para 5) stands lapsed;

(II) Consequently issue writ of CERTIORARI quashing the impugned acquisition proceedings commenced vide notification under Section 4 of Act 1894 bearing no.F.10(43)/96/L&B/LA/3]72Dated 23.05.2002resulting in Award no. 16/2003-04 for Village Holambi Kalan Delhi vis-à-vis subject lands (Para 5);

(III) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents not to interfere with and/or obstruct the petitioners in peaceful enjoyment of the subject lands (detailed in Para 5) situate in village Holambi Kalan, Delhi;

(IV) Pass any other or further writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

3. The admitted facts are that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) issued on 23rd May 2002 which was followed by a declaration under Section 6 of the LAA on 17th December 2002. The impugned Award No. 16/2003-04 was passed on 29th September 2003.

4. The case of the Petitioners in para 2 of the petition is that “barring the petitioners, compensation has not been paid/tendered and/or deposited to majority of the landowners...” In other words, the Petitioners do not dispute that they have received compensation. However, they contend that the possession of the land in question still remains with them and therefore they are entitled to the relief under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013Act’).

5. In the counter affidavit filed on behalf of the LAC, it is pointed out that the possession of the land in question was taken on the spot on 12st June 2004 and 22nd June 2004 and handed over to the DDA “for the purpose of acquisition was for Rohini Residential Scheme”. In relation to the lands acquired for the Rohini Residential Scheme, the Supreme Court has in a series of orders in **Rahul Gupta v. DDA** [SLP (C) No. 16385-16388 of 2012] held that even if on the date of the order of the Supreme Court, i.e. 18th October 2016, actual physical possession was not with the DDA, if such physical possession was not handed over

within ten days, then the DDA would be deemed to be in possession of the lands in question.

6. In view of the above orders of the Supreme Court as of today, the lands in question are deemed to be in possession of the DDA. Therefore, the only ground on which the Petitioners have been seeking the relief under Section 24 (2) of the 2013 Act has ceased to exist.

7. Consequently, there is no merit in these writ petitions and they are dismissed as such.



S. MURALIDHAR, J.



I.S. MEHTA, J.

MARCH 12, 2019

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