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

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W.P.(C) 2311/2016

OM PRAKASH & ORS.

..... Petitioners

Through: Mr T.K. Tiwari, Advocate for Mr
Rajesh Gupta. Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms Rukhmini Bobde and Mr Nivesh
Kumar, Advocate for DDA.
Mr Rajneesh Sharma, Advocate for
LAC/ L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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21.01.2019

1.The prayers in the present petition read as under:

- (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.II (19)IO1IL&BILAI20112 Dated 21.03.2003 resulting in Award no. 25/2005-06 for Village Kirari Suleman Nagar (Patti Nithari) Delhi vis-a-vis subject lands (detailed in Para 5.1) 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.II (J9)IOiIL&BILAI20ii2 Dated 21.03.2003 resulting in Award no. 25/2005-06 for Village Kirari Suleman Nagar (Patti Nithari) Delhi vis-a-vis subject lands (Para 5.1);

- (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 5.1) situate in village Kirari Suleman Nagar (Patti Nithari), 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.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 21st March, 2003 for the planned development of the Rohini Residential Scheme ('RRS'). The declaration under Section 6 LAA was issued on 19th March, 2004 followed by an Award No. No.35/2005-06 dated 6th February 2006. It is claimed that the subject land has actually not been acquired “even though the land acquiring agency paid the compensation to the Petitioners”. In other words, it is asserted that although compensation was paid to them, the actual physical possession of the subject lands continues to remain with the Petitioners.

3. A reply has been filed by the Delhi Development Authority ('DDA') on 3rd May, 2017 confirming that the physical possession of the land in question was taken over and handed over to the DDA on 13th October, 2006. The copy of the possession proceedings has been enclosed with the counter affidavit. The details of payment of compensation have also been set out. *Inter alia*, it is pointed out that the petition is barred by delay and laches. A reference has been made to the orders passed by the Supreme Court in

relation to the Rohini Residential Scheme in ***Rahul Gupta v. Delhi Development Authority & Ors*** in IA Nos. 42-45/2015 in SLP (Civil) No. 16385-16388 of 2012.

4. A separate counter affidavit has been filed by the LAC (North/West) in which, *inter alia*, it is reiterated that the actual physical possession of most of the land was indeed taken except to the extent of 26 bighas and 17 biswas. No rejoinder affidavit has been filed to either of the counter affidavits.

5. In view of the categorical orders of the Supreme Court in the Rohini Residential Scheme matters, the possession of the lands acquired for the purposes of the Rohini Residential Scheme, are deemed to be with the DDA, a direction has been issued to such of those persons who have “re-entered possession or otherwise” to vacate the land and hand over its possession forthwith to the DDA failing which “it shall be assumed to be in the possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.” This legal position has not been disputed by the Petitioners.

6. With the Petitioners themselves admitting to have received compensation for the acquired land in question and with the possession deemed to have been with the DDA in terms of the aforementioned orders of the Supreme Court, it is not possible for this Court to entertain the present petition seeking a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act.

7. The petition is accordingly dismissed with no costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 21, 2019

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