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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 28.05.2024

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W.P.(C) 4701/2015**SHARIF KHAN**

..... Petitioner

Through: Mr Nasir Ahmed and Mohammad
Muzahir Husain, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Ms Manika Tripathy, Standing
Counsel for DDA with Mr Rony
John, Advocate.Mr Sanjay Kumar Pathak, Standing
Counsel with Mr Sunil Kumar Jha,
Mr M.S. Akhtar, Mr Sameer Chatrath
and Mr Mayank Madhu, Advocates
for R-3.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition, *inter alia*, praying as under:

“(i) To issue an order for declaring the entire acquisition proceedings vide impugned Award no.10/87-88 dated 14.05.1987 in respect of the said property bearing Khevat Jamabandi no. 50/42, Khatoni no.52 in Khasra no.453(1-2) and land in Khatauni no.53 having Khasra no.454(4-16), 459(5-18), 460(4-16),461(4-16), 462(3-14) total area 25 Bighas and 2 Biswas been lapsed in view of the section 24(2) of Right to Fair Compensation and Transparency in



Land Acquisition, Rehabilitation and Resettlement Act, 2013 in favour of the Petitioner and against the Respondent no.1 and;

(ii) To quash the entire acquisition proceedings vide impugned Award no. 10/87-88 dated 14.05.1987 in respect of the said property bearing Khevat Jamabandi no.50/42, Khatoni no.52 in Khasra no.453(1-2) and land in Khatauni no.53 having Khasra no.454(4-16), 459(5-18), 460(4-16), 461(4-16), 462(3-14) total area 25 Bighas and 2 Biswas been lapsed in view of the section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in favour of the Petitioner and the Respondents.”

2. The petitioner claims that he is co-owner of the land comprising in Khasra No.454 (4 bighas and 16 biswas); Khasra No.459 (5 bighas and 18 biswas); Khasra No.460 (4 bighas and 16 biswas); Khasra No.461 (4 bighas and 16 biswas); and Khasra No.462 (3 bighas and 14 biswas) (hereafter referred to as *the subject land*). The petitioner claims that the subject land is an ancestral property and he is one of its beneficial owner. He also claims that the actual physical possession of the subject land has not been taken over by the concerned authorities and no compensation has been received.

3. It is stated that the said land was acquired under Award No.10/87-88 dated 14.05.1987. However, since the possession was not taken over and compensation was not paid, its acquisition under the Land Acquisition Act, 1894 (hereafter *the LA Act*), had lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter *the 2013 Act*).

4. The averments made in the petition have been countered by



respondent no.3 (hereafter *the LAC*) in the counter affidavit. It is affirmed that the Notification under Section 4 of the LA Act in respect of the lands located in village Sahoorpur, which includes the subject land, was issued on 25.11.1980. The same was followed by a Notification under Section 6 of the LA Act, which was published on 21.05.1985. Thereafter, the LAC had passed the Award (being Award No.10/87-88 dated 14.05.1987) in respect of the lands located at village Sahoorpur, including the subject land.

5. It is claimed that certain land owners had challenged the acquisition by filing writ petitions. The lead petition being **CWP No. 1639/1985** captioned **Balak Ram Gupta v. Union of India & Others**. The said petitions were allowed by a common judgment dated 18.11.1988 and the Notification issued under Section 6 of the LA Act, 1894 was quashed.

6. However, it is averred on behalf of the LAC, the petitioner did not challenge either of the two Notifications – Notification dated 25.11.1980 issued under Section 4 of the LA Act or Notification dated 21.05.1985 issued under Section 6 of the LA Act. It is contended that since the petitioner had not challenged the said Notifications, the same continued to subsist *qua* the petitioner. This was clarified by the Supreme Court in a subsequent decision in **Delhi Administration v. Gurdeep Singh Uban & Others : (2000) 7 SCC 296**.

7. It is stated that thereafter, certain land owners had filed a petition challenging the acquisition proceedings but the same was dismissed. The said land owners had moved the Supreme Court in a Special Leave Petition (being SLP No.26537/2005). However, the same was also rejected by a



judgment dated 08.02.2010. The lead case being captioned *Om Prakash v. Union of India & Others*.

8. Insofar as the subject land is concerned, it is affirmed on behalf of the LAC that the physical possession of the subject land was taken over and part compensation was disbursed and part of the compensation was deposited. Paragraph 8 of the counter affidavit filed on behalf of the LAC is relevant and is set out below:

“8. That it is submitted that the possession of the land bearing no.50/42, khatoni NO. 52 in khasra no. 453 (1-2), khatoni No. 53 in kh. No. 454 (4-16), 459 (5-18), 460 (4-16), 461 (4-16), 462 (3-14) measuring 25 bigha and 2 biswas of village Sahoorpur, is in ownership of petitioner and possession whereof with respect to aforesaid khasra no's was duly taken over on dated 14.07.87 and awarded compensation with respect to kh No. 454 (4-16), 459 (5-18), 460 (4-16), 461(4-16), 462 (3-14), was paid 2/3 share to Bhagirath Lal Mittal Rs.100284.11 dated 30.09.1987 and Smt. Kalawati Rs.124652.21 dated 30.09.1987 and 1/3rd compensation amount in the name of Sh. Shibbi S/o Dhundal was sent in “RD” and in respect of kh. NO. 453 (1-2) is concerned compensation sent in “RD” only. It is further submitted that petitioner has not placed on record the copy of notification of section 4 & 6 of Old land Acquisition Act.”

9. It is material to note that respondent no.2 (hereafter *the DDA*) has also filed a counter affidavit enclosing therewith translation of the possession proceedings conducted on 14.07.1987. The same indicates that physical possession of land measuring 751 bighas in village Sahoorpur, which was acquired in terms of the Award No.10/87-88 dated 14.05.1987, was taken



over by the officials of the Land and Building Department and on the same date was handed over to the DDA. The record of the said proceedings clearly indicate that the possession proceedings also included the subject land.

10. In view of the above, we are unable to accept that the acquisition has lapsed under Section 24(2) of the 2013 Act.

11. In terms of Section 24(2) of the 2013 Act, two conditions are required to be satisfied for the acquisition to lapse. First, that the possession of the land has not been taken over and second, that the compensation has not been paid. In *Indore Development Authority v. Manohar Lal & Others : (2020) 8 SCC 129*, the Supreme Court has clarified that both the said conditions have to be satisfied cumulatively. In the present case, the said conditions are not satisfied and therefore, we are unable to accept that the acquisition of the subject land has lapsed.

12. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 28, 2024
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