

\$~43

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

% *Date of Judgment: 13<sup>th</sup> September, 2018*

+ W.P.(C) 6253/2015

JAGDISH SINGH & ORS.

..... Petitioners

Through: Mr. Anuroop P.S., Advocate

versus

UNION OF INDIA & ANR.

.... Respondents

Through:

Mr. Yeeshu Jain, Standing Counsel  
with Ms. Jyoti Tyagi, Advocate for  
L&B/LAC.

Mr. Sanjeev Sabharwal, Standing  
Counsel with Mr. Hem Kumar and  
Mr. Pritish Sabharwal, Advocates for  
DDA.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**G.S.SISTANI, J. (ORAL)**

1. This petition has been filed under Article 226 of the Constitution of India by the petitioners. The petitioners seek a declaration that the acquisition proceedings in respect of the land of the petitioners comprised in Khasra no.181 measuring 4 bigha 16 biswas, situated in the revenue estate of village Rajpur Khurd, Tehsil Hauz Khas, Mehrauli, New Delhi (hereinafter referred to as 'the subject land') are deemed to have 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 the '2013 Act'), as neither the physical possession of the subject land has been taken nor the compensation has been tendered.

2. The necessary facts required to be noticed for the disposal of the present petition are that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 25.11.1980, a Section 6 declaration was made on 18.06.1985. Thereafter, an Award bearing no.22/1987-88 was rendered on 17.06.1987.
3. Admittedly, the petitioners had made an application in the name of the predecessor-in-interest for providing an alternate plot which was being provided to the land owners, whose land had been acquired, however, the request of the petitioners was rejected on the ground that the land of the petitioners had not been acquired. The counter affidavit filed by the LAC, however, has a different story to tell inasmuch as per the stand taken in para 10 of the counter affidavit, physical possession of the subject land was taken on the spot on 15.07.1987 and compensation was tendered to the recorded owners by cheque no.82599 dated 18.09.1987. Para 10 of the counter affidavit filed by the LAC is reproduced below:

“10. That it is submitted that the physical possession of the subject land falling in khasra number 181 (4-16) was taken on the spot on 15.7.1987 and handed over to the DDA as also the compensation was duly paid to the recorded owners vide cheque number 82599 dated 18.9.1987. Thus the present writ petition is not maintainable and is liable to be dismissed.”

4. Mr. Jain, learned counsel appearing on behalf of the LAC submits that having regard to the fact that the physical possession of the subject land was taken and the compensation tendered, the provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not apply and resultantly, no relief can be granted to the petitioners.
5. At this stage, learned counsel appearing for the petitioners submits that when the petitioners approached the Office of Land and Building for grant of alternate plot, the application was rejected on the ground that the land had not been acquired, today an opposite stand is being taken that the possession of the land has been taken and compensation paid. It is thus, submitted that the petitioners cannot be made to suffer on both counts. Counsel for the petitioners submits that in the light of the stand taken by the LAC, the application seeking an alternate plot should be revived and the request be considered in accordance with law.
6. We find force in the submission of the learned counsel for the petitioners inasmuch as the application so filed was rejected, as stated by the counsel for the petitioner on the ground that the land of the petitioners had not been acquired, and the petitioners would not be entitled to an alternate plot.
7. Admittedly, the possession of the subject land has been taken as per the counter affidavit filed by the LAC. Thus, the petitioners cannot be granted any relief. However, we direct the Land and Building Department to consider the application filed by the petitioners in accordance with law. It is made clear that the ground of delay will not

come in the way of the petitioners in view of the pendency of this writ petition in this Court.

8. With these observations the writ petition stands disposed of.

**G.S.SISTANI, J.**

**SANGITA DHINGRA SEHGAL, J**

**SEPTEMBER 13, 2018**

pst

सत्यमेव जयते