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THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 23.02.2016

+ **W.P.(C) 8375/2015 & CM 17813/2013**

DINESH GAUTAM AND ANR ... Petitioners

versus

GOVT. OF NCT OF DELHI AND ORS ... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Vishal Maan
For the Respondent L&B/LAC : Mr Siddharth Panda

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE R.K. GAUBA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over by Mr Siddharth Panda on behalf of respondent nos. 1&2 is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit and

reiterates the contents of the writ petition in response to the said counter affidavit.

2. By way of this writ petition the petitioners seek the benefit 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”) which came into effect on 01.01.2014. The petitioners, consequently, seek a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the “1894 Act”) and in respect of which Award No. 15/1987-88 dated 05.06.1987 was made, *inter alia*, in respect of the petitioners’ land, to the extent of 1 bigha only comprised in Khasra Nos. 1785/1-2 min and 1788/1-2 min in village Chattarpur, New Delhi, shall be deemed to have lapsed.

3. In this case, it has been admitted by the concerned Land Acquisition Collector that physical possession of the subject land has not been taken. This is evident from the counter-affidavit filed on behalf of the concerned Land Acquisition Collector. It is, however, contended by the learned counsel for the respondents that the amount of compensation in respect of the same was deposited in the treasury, though the same has

not been paid to the land owner nor was it offered to the land owner. This would not amount to compensation having been paid.

4. As such, in the present case, neither physical possession of the subject land has been taken nor has any compensation been paid to the petitioners. The Award was made more than five years prior to the coming into force of the 2013 Act. Therefore, in view of the following decisions of the Supreme Court and this court, the necessary ingredients for attracting the deeming provision of section 24(2) of the 2013 Act stand satisfied:-

- (1) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183;**
- (2) **Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564;**
- (3) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No. 8700/2013** decided on 10.09.2014;
- (4) **Surender Singh v. Union of India & Others: WP(C) 2294/2014** decided on 12.09.2014 by this Court; and
- (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors: WP(C) 2759/2014** decided on 12.09.2014 by this Court.

5. The learned counsel for the respondents also submitted that the present petition is not maintainable because the petitioners are subsequent purchasers. While it is true that, in the context of the 1894 Act, the Supreme Court has held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, we are of the view that the present petition, as it now stands is not a challenge to the acquisition proceeding but a petition seeking declaration of rights which had accrued to the petitioners by virtue of the deeming provision of section 24(2) of the 2013 Act. Once the acquisition has lapsed because of the triggering of the deeming provision of section 24(2) of the 2013, Act, the benefit of the same cannot be denied to the petitioners on the ground that they are subsequent purchasers.

6. As a result, the petitioners are entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

7. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

R.K. GAUBA, J

FEBRUARY 23, 2016

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