

(2018) 01 DEL CK 0173

In the Delhi High Court

Case No : Civil Writ Petition No. 9545 Of 2015, Civil Miscellaneous Application
No. 22516 Of 2015

Asha Praksh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 04-01-2018

Acts Referred:

Constitution Of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 6
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and
Resettlement Act, 2013 — Section 24(2)

Citation : (2018) 01 DEL CK 0173

Hon'ble Judges : G.S.Sistani, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Richa Oberoi, Siddharth Panda, Dhanesh Relan

Judgement

G. S. Sistani, J

1. This writ petition was admitted on 21.11.2016.
2. This is a petition under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings with respect to the land of the petitioner being 1 bigha 12 biswas 7 biswansi, out of the half share of land forming part of Khasra No.814 Min (3-5) and 815 Min (1-12) situated in the revenue estate of village-Satbari, New Delhi stands lapsed, as neither the actual physical possession has been taken nor the compensation has been paid.
3. Counsel for the petitioner submits that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') was issued on 25.11.1980 and a declaration under Section 6 of the said Act was made on 27.05.1985 and an Award bearing No.14/87-88 was made on 26.05.1987 with respect to the subject land. It is also the case of the petitioner that case is fully covered by the decision rendered by the Apex Court in Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors. Reported in (2014) 3

SCC 183.

4. Mr.Panda, counsel for LAC has opposed the writ petition firstly on the ground of maintainability. It is contended that the petitioner is not the rightful owner, thus, no relief can be granted to the petitioner. He further submits that the possession of the subject land was taken and handed over to beneficiary department. However, he does not dispute that the compensation has not been paid.

5. Counsel for the petitioner submits that objection with regard to the maintainability is misplaced and reliance is placed on Govt. of NCT of Delhi Vs. Manav Dharma Trust and another, reported in 2017 (6) SCC 751.

6. We have heard counsel for parties.

7. The petitioner has claimed ownership based on the fact that initially Smt. Neena Narang and Smt. Promila Badhwar were recorded owners as per the revenue record copies whereof have been filed on record.

8. It is also the case of the petitioner that the petitioner has purchased 1/2th share of aforesaid land from Smt.Promila Badhwar and the petitioner further sold 790 square yards, out of her 1/2th share to one Anchal Properties Pvt. Ltd. Anchal Properties Pvt. Ltd. had filed a similar writ petition bearing no.8267/2014 pertaining to 790 square yards, out of 1/2th share of land forming part of Khasra no.814 min (3-5) and 815 min (1-12).

9. The aforesaid writ petition was allowed vide judgment dated 22.09.2015.

10. As far as objection raised by the counsel for the LAC with regard to the ownership is concerned, we find the objection to be misplaced on account of decision rendered in the case of Manav Dharma Trust (supra) and the averments noted above. Para 28 of this judgment reads as under:-

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

11. Resultantly, there is no merit in the objection raised by the counsel for the LAC with regard to maintainability of the writ petition.

12. Taking into consideration the averments made in the writ petition and stand of the LAC that the compensation has not been paid and the award having been announced more than five years prior to the commencement of the Act of 2013, we are of the view that the necessary ingredients of Section 24 (2) of 2013 Act as interpreted by the Supreme Court of India in case Pune Municipal Corporation

& Anr. V. Harak Chand Misiri Mal Solanki & Ors. Reported in (2014) 3 SCC 183 stands satisfied. As a result, the petitioner is entitled to declaration that the acquisition proceedings initiated under 1894 Act in respect of subject land are deemed to have lapsed. It is so declared accordingly.

CM No.22516/2015

The application stands disposed of in view of order passed in writ petition.