

(2018) 02 DEL CK 0535

In the Delhi High Court

Case No : Civil Writ Petition No. 9062 Of 2016

Dunger Singh Tokas & Ors

APPELLANT

Vs

UOI & Ors

RESPONDENT

Date of Decision : 22-02-2018

Acts Referred:

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

Citation : (2018) 02 DEL CK 0535

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

Bench : Division Bench

Advocate : A. K. Singla, Abhimanyu Singh Khatri, Mohit Bhardwaj, Rashmi Pandey, Sanjay Kumar Pathak, K Kaomudi Kiran, Sunil Kumar Jha, Kushal Raj, Mrinalini Sen, Shatrajit Banerji

Judgement

G. S. Sistani, J

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.

2. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking that the acquisition proceedings with respect to the land

of the petitioners comprised in Khasra No. 582/175 measuring 1 Bigha 1 Biswa situated in the revenue estate of Village Kusumpur, Delhi (hereinafter

referred to as "Subject Land"), is deemed to have been 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 "2013 Act"), as neither the physical possession has been

taken nor compensation has been paid to the petitioner.

3. Mr. Singla, learned Senior Counsel appearing for the petitioner submits that that a Section 4 notification of the Land Acquisition Act, 1894

(hereinafter referred to as "the Act") was issued on 23.01.1965 followed by a notification under Section 6 of the Act issued on 06.09.1966 and an

Award bearing No. 2181-C/Suppl., which was supplementary to Awards Nos. 2181-A/Suppl. And 2181-B/Suppl.

4. Learned Senior Counsel has placed reliance on Section 24 (2) of 2013 Act to seek the relief so prayed.

5. Mr. Pathak, learned counsel for the LAC/L&B placed reliance on para 8 of the counter affidavit to contends that the possession of the subject land

was taken on 15.11.1980. As far as compensation is concerned, it is submitted that as per Naksha Muntzamin, the compensation amount has been

paid to the recorded owners against other numbers with respect to the Khasra No. 582/175 (1-01) the payment status is not mentioned.

6. Learned Senior Counsel for the petitioner submits that reading of para 8 of the counter affidavit would show that there is record available to suggest

that compensation has been tendered to the petitioners which is not disputed by learned counsel for LAC.

7. We have heard learned counsel for the parties.

8. Para 8 of the counter affidavit filed by the LAC, reads as under:

"That as regards possession and compensation it is humbly submitted that as per possession proceeding report possession of subject

land i.e. KHasra No.582/175 (1-01) was taken on 05.11.1980. So far as compensation amount is concerned, it is humbly submitted that

Naksha Muntzamin is in very old and torn condition. As per Naksha Mutzamin, recorded owner of the subject land is Shiv Dayal S/o

Dharmu at item No.95. It is humbly submitted that compensation amount paid is recorded against other item Nos. but in respect of Khasra

No.582/175 (1-01) the payment status is not mentioned."

9. Reading of para 8 of the counter affidavit would show that there is no record available to show that compensation was infact so paid to the

petitioners. The counter affidavit simply states that with respect to the Khasra NO. 582/175 (1-01), the payment status is not mentioned. A statement

is made on behalf of the petitioners that they have not received the compensation.

10. In view of the above discussion, the petitioners are entitled to a declaration under Section 24 (2) of 2013 Act as per which in case either

compensation has not been tendered or possession is not taken, the acquisition proceedings would be deemed to have been lapsed. It is ordered

accordingly that the acquisition proceedings with respect to the subject land of the petitioner stand lapsed.

11. We make it clear that this statement made by the petitioners would be treated as an undertaking to the Court that in case, it is found that the

statement is found false, the petitioners would be liable for perjury.