

(2017) 10 DEL CK 0119

In the Delhi High Court

Case No : Civil Writ Petition No. 9606 Of 2015

M/S Amar Iron Store And Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 30-10-2017

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24(2)

Citation : (2017) 10 DEL CK 0119

Hon'ble Judges : G. S. Sistani, J;V. Kameswar Rao, J

Bench : Division Bench

Advocate : Rishi Bhatnagar, Archana Gaur, Ridhima Gaur, Pawan Mathur, Siddharth Panda

Final Decision : Allowed

Judgement

G.S.Sistani, J

1. The petitioners, who are ten in number seek the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act which came into effect on January 1, 2014 (2013 Act). A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred as the "1894 Act") in respect of which Award No. 15/1992-93 dated 19th June, 1992 was made, inter alia, in respect of the petitioners' land comprised in the following khasra nos. deemed to have lapsed.

S. No.

Name

Land Details

Area Bigha-Biswa

1.

M/s. Amar Iron Store through Partner Sh. Devinder Garg, S/o Sh. Kishori Lal
Khasra No.59

1-0

2.

Sh. R.S. Ghuman, S/o Sh. Ishar Singh, S/o Sh. Sadhu Singh

Khasra No.64

1-0

3.

Raj Kumar Bansal, S/o Chuhan Mal

Khasra Nos.62 and 63

1-2

4.

Sh. Arun Thapar, through Power of Attorney Holder Pawan Thapar

Khasra No.62

1-0

5.

Sh. Sanjeev Sharma, S/o, Sh. D.P. Sharma

Khasra Nos.58, 59, 60, 62, 64 & 65

2-0

2. Though, the LAC in its counter-affidavit claim that possession of the land in question has been taken over and handed over to the beneficiary department on 21st April, 2016, the petitioners" dispute this and maintain the physical possession has not been taken over. However, insofar as the issue of compensation is concerned, it is stated as per statement "A" compensation was not paid to the recorded owner.

3. Without going into the controversy of physical possession, it is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid. The necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases 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) Surrender 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.

4. 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 land are deemed to have lapsed. It is so declared.

5. An argument has also been raised with regard to the maintainability of the writ petition by the petitioners.

6. We would also like to refer to the judgment of the Supreme Court in the case of Government of NCT of Delhi vs. Manav Dharam Trust & Ors., 2017 6 SCC 751, wherein in para 26 Supreme Court has held as under:

"26. There is a clear indication that the Act proposes to protect the interest of those persons, among others who are affected by the acquisition. The subsequent purchasers/successors, etc., in the cases before us, are all people affected by the acquisition, and therefore, also they are entitled to seek a declaration on lapse under the 2013 Act."

7. We also refer to an order dated 15th February, 2016 in the case of B.S. Dhillon and Ors. vs. Union of India & Ors., W.P.(C) 2916/2015, decided on 15th February, 2016 relating to the same award i.e. Award No.15/1992-93 dated 19th June, 1992, wherein similar declaration with respect of the land comprised in khasra nos. 62 and 65 in village Behlolpur Khadar, New Delhi has been granted in favour of the petitioners therein.

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

CM No.22729/2015

Interim order dated 12th October, 2015 is made absolute.

Application stands disposed of.