

(2016) 10 DEL CK 0042
In the Delhi High Court
Case No : Writ Petition (C) 8298 of 2015

Mukesh Jain

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 04-10-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2016) 235 DLT 1

Hon'ble Judges : Badar Durrez Ahmed and Ashutosh Kumar, JJ.

Bench : Division Bench

Advocate : Mr. Siddharth Panda, Advocate, for the Respondent; Mr. Chiranjiv Kumar, Advocate, for the Respondent UOI; Ms. Richa Oberoi with Mr. APS Sehgal, Advocates, for the Petitioner; Mr. Himanshu Rewatkar for Mr. Sushil Dutt Salwan, Advocate, for the Respondent/D

Final Decision : Allowed

Judgement

Badar Durrez Ahmed, J (Oral) - The learned counsel for the petitioner states that this matter is covered by the decision of this Court in the case of Girish Chhabra v. Lt. Governor of Delhi and Ors., W.P.(C) 2759/2011 decided on 12.09.2014. He states that although possession of the subject land has been taken, the award under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was made more than five years prior to the commencement 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. In this case Award No.12/1987-88 was made on 20.05.1987. He also states that compensation has not yet been paid to the petitioner. Therefore, the requirements of section 24(2) of the 2013 Act have been fulfilled and the petitioner is entitled to a declaration that the subject acquisition under the 1894 Act has lapsed. The land in question is situated in village Neb Sarai, Delhi, in Khasra No. 389 min (1-04) measuring 1 bigha 4 biswas in all.

2. Admittedly, physical possession of the subject land was taken on 05.09.2005. However, as per the petitioner no compensation has been received in respect of the said land. On the other hand, the learned counsel for the respondents submit that Statement A is not available and therefore he would not be in a position to say as to whether compensation has been paid or not. As a result, it will have to be taken that the statement made by the petitioner to the effect that no compensation has been paid is correct. Consequently, the decision of this court in Girish Chhabra (*supra*) applies on all fours and the subject acquisition has lapsed.
3. The writ petition is allowed by declaring that the acquisition in respect of the subject land has lapsed. There shall be no order as to costs.