

(2018) 07 DEL CK 0135
In the Delhi High Court
Case No : W.P.(C) 8568 OF 2015

New India Assurance Co. Ltd @APPELLANT@Hash Prakash & Ors

Date of Decision : 03-07-2018

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) 07 DEL CK 0135

Hon'ble Judges : G.S.SISTANI, J;SANGITA DHINGRA SEHGAL, J

Bench : Division Bench

Final Decision : Dipped Of

Judgement

G.S.SISTANI, J

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India. The petitioner seeks a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra nos.835 and 837, measuring 1 bigha 3 biswas, situated in the revenue estate of village Chattarpur, Delhi (hereinafter referred to as "the subject land") is deemed to have 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 the "2013 Act"), as neither the physical possession of the subject land has been taken nor the compensation has been tendered.

2. It is submitted that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 25.11.1980, a Section 6 declaration was made on 07.06.1985. Thereafter, an

Award bearing no.15/1987-88 was rendered in the year 1987. Mr. Maan, the learned counsel for the appellant relies on the counter affidavit file by the LAC, as per which it is submitted that the physical possession has not been taken and the compensation was sent to RD. Mr. Maan submits that the impending judgment of the Constitution Bench of the Supreme Court of India would not have any impact on the present case as admittedly the physical possession has not been taken in this matter. Â

3. Learned counsel for the LAC relies on para 8 of the counter affidavit, which we reproduce below:

â??8. That in the present case, the possession of the land in question was not taken, however, the compensation with respect to the above said land

was sent in RD. It is pertinent to mention here that the present petitioner having full knowledge about the status of the land in question and without

taking permission from the competent authority as required under Delhi Land (Restriction of Transfer) Act, 1972 have purchased the lands. Such

sale/purchase is void and does not bind the Government in any manner. Since, the petitioner is subsequent purchaser, he donâ??t have any right to seek

release of the land in question. In the present writ petition the petitioner is challenging the acquisition proceeding, which was taken in pursuance to the

above mentioned notifications and award, which was never challenged neither by the petitioner nor by the predecessor of the petitioner. Thus the

petitioner has no locus to file the present writ petition and seek any relief with respect to the above said khasra numbers.

This issue has been settled by the Honâ??ble Supreme Court of India in Meera Sahni & Ors. vs. Lt. Governor of Delhi reported in 2008(9) SCC 177,

wherein the Honâ??ble Apex Court categorically held that the petitioners being subsequent purchasers of the land in question do not derive any title to

the land and cannot challenge the acquisition proceedings. Although an affidavit has been filed in the name of one of the recorded owner but the said

affidavit has been signed by the power of attorney holder and not by the owner himself.â?? Â

4. Regarding ownership, the learned counsel for the petitioner submits that this question is no longer res-integra. In support of his submission, Mr.

Maan has placed reliance upon a decision rendered by the Apex Court in Govt. of NCT of Delhi v. Manav Dharma Trust and another, reported in

2017 (6) SCC 751.

5. We have heard the learned counsels for the parties and considered their rival submissions.Â

6. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the physical possession of the subject land has not been taken and

thus, one of the two ingredients of Section 24(2) is accordingly met. Â

7. Having regard to the fact that the possession of subject land has not been taken over nor the compensation has been tendered but deposited in RD

and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered

by the provisions of Section 24(2) of the 2013 Act and thus, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the

Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly. Â

The writ petition stands disposed of.