

(2018) 08 DEL CK 0350

In the Delhi High Court

Case No : Civil Writ Petition No. 4192 Of 2017

Raja Ram Jindal

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 13-08-2018

Acts Referred:

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) 08 DEL CK 0350

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

Bench : Division Bench

Final Decision : Diposed Off

Judgement

G.S.SISTANI, J. (ORAL)

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings

initiated in respect of the land of petitioners comprised in Khasra no.35/3 min and 30/23 min total measuring 1 bigha 7 biswas i.e. 1352 sq. yds.,

situated in the revenue estate of village Rani Khera, Delhi (hereinafter referred to as "the subject land") are 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 compensation has been tendered to the petitioner nor physical possession of the subject land has

been taken.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 21.03.2003.

Thereafter a Section 6 declaration was made on 18.03.2004. An Award bearing no.08/2005-06 was rendered on 28.06.2005.

3. Counsel for the petitioner submits that in this case neither compensation has been tendered to the petitioner nor possession of the subject land has been taken.

4. Counter affidavit has been filed by the LAC in which the title of the petitioner has been challenged. However, it is averred therein that neither compensation has been paid nor possession of subject land has been taken. Paras 4 and 5 of counter affidavit filed by the LAC read as under:

4. That the present writ petition is liable to be dismissed as there is no cause of action in favour of the petitioner to file the present writ petition as neither the possession of subject land was taken nor the compensation was paid to the recorded owners. The petitioner is not the recorded owner of the subject land falling in two khasra numbers.

5. That it is submitted that the lands of village Rani Khera were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 18.3.2004. The Award was also passed vide Award No.08/2005-06 dated 12.7.2005 and which acquisition proceedings were apparently never challenged by the recorded owners as the purpose of acquisition was Rohini Residential Scheme.

5. Counsel for the petitioner submits that the petitioner had purchase the land measuring 1 bigha, 7 biswas and 7 biswani vide agreement to sell dated 30.06.1997 prior to Section 4 notification. Reliance is placed on 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 wherein definition of interested person has been given, more particularly, 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.â??We have heard the learned counsels for the parties and considered their rival submissions.

6. We have heard the learned counsel for the parties and considered their rival submissions.

7. The objections raised by the counsel for the LAC with regard to the maintainability of the writ petition on the ground of locus standi is without any force in view of the observations made by the Apex Court in the case of Manav Dharma Trust and another(supra).

8. Reading of the counter affidavit filed by the LAC leaves no room for doubt that neither possession of the subject land has been taken nor

compensation has been tendered to the petitioner or the recorded owner and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.

9. Having regard to the fact that no compensation has been tendered to the petitioner or the recorded owner and also possession of the subject land

has not been taken 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, 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.

10. We have not expressed any opinion on the title of the parties. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.

11. In above terms, the writ petition stands disposed of.