
(2018) 03 DEL CK 0434

In the Delhi High Court

Case No : Civil Writ Petition No. 5053 Of 2016, Civil Miscellaneous Application
No. 21108 Of 2016

Shakuntla Devi

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 14-03-2018

Acts Referred:

Constitution Of India, 1950 — Article 226
Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And
Resettlement Act, 2013 — Section 22(1), 24(2)
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2018) 03 DEL CK 0434

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

Bench : Division Bench

Advocate : Priya Pathania, Nishant Anand, Anju Gupta, Roshan Lal Goel, Yeeshu Jain, Jyoti Tyagi, Dhanesh Relan, Komal Sorout, Kajri Gupta

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. Counter affidavit has not been filed by the LAC. Mr. Jain submits that the counter affidavit is ready. Copy of the same has been supplied to the counsel for the petitioner. Counter affidavit has been handed over in Court. The same is taken on record.

2. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The petitioner seeks a declaration that the acquisition proceeding initiated with respect to land of the petitioner, having 1/4th joint share in Khasra No.759 (4-16), total measuring 1 bigha, situated in the revenue estate of village Malikpur Kohi @ Rangpuri, Tehsil Vasant Vihar, Delhi (hereinafter referred to as 'the subject land') is deemed to have lapsed in view of provisions 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 actual physical possession of the subject land has been taken nor the compensation has been tendered to the petitioner.

3. Counter affidavits have been filed by the LAC as also the DDA. In the counter affidavit filed by the DDA, it has been averred that the physical possession of the land was taken on 31.12.2013 (one day prior to coming into force of 2013 Act). However, the compensation could not be paid as the same has not been received from the beneficiary department. Counter affidavit filed by the DDA, however, reveals that the possession has been taken and compensation has been paid to the LAC.

4. We have heard the learned counsel for the parties.

5. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.06.1996. A Section 6 declaration was made on 24.06.1997. Thereafter, an Award bearing No.7/98-99/SW was rendered on 22.06.1999.

6. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the compensation has not been tendered to the petitioner.

Para 4 of the counter affidavit filed by the LAC reads as under :-

"4. That it is submitted that the lands of village Malik Pur Kohi @ Rangpuri were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 27.6.1996 which was followed by the Notification under section 6 of the Act dated 24.6.1997. The Award was also passed vide Award No.07/98-99 dated 22.6.1999 and the actual vacant physical possession of the subject land falling in khasra number 759 (4-16) which is subject matter of the present writ petition was taken on 31.12.2013 in which petitioner is having 1/4th joint share i.e. measuring 1 bigha on spot and handed over to the requisition agency by preparing proper possession proceedings on the spot. The compensation however could not be paid as not received from requisition agency i.e. DDA.

7. As far as the possession is concerned, counsel for the petitioner disputes that the physical possession has been taken. Counsel submits that although the award has been passed five years prior to coming into force of the 2013 Act, but the compensation has not been tendered to the petitioner. Hence, the case of the petitioner would be fully covered by provisions of Section 24(2) of 2013 Act.

8. Having heard learned counsel for the parties and taking into consideration the averments made by the LAC and DDA in their counter affidavits, it is clear that the compensation has not been tendered to the petitioner, the award having been passed more than five years prior to the coming into force of the 2013 Act, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the subject land are deemed to have lapsed. It is ordered accordingly.

9. The writ petition stands disposed of.

CM APPL 21108/2016 (stay)

10. Application stands disposed of in view of the order passed in the writ petition.