

(2018) 02 DEL CK 0222

In the Delhi High Court

Case No : Civil Writ Petition No. 9428 Of 2017

Sunil Kumar

APPELLANT

Vs

Union Of India And Anr

RESPONDENT

Date of Decision : 06-02-2018

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, 11, 18, 30, 31, 31(1), 31(2), 32, 33, 34

Citation : (2018) 02 DEL CK 0222

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

Bench : Division Bench

Advocate : Rachna Agrawal, Bhagwan Swarup Shukla, Kamaldeep, Yeeshu Jain, Jyoti Tyagi, Arun Birbal, Sanjay Singh, Ajay Birbal

Final Decision : Disposed Of

Judgement

NAME,KHASRA NO.,AMOUNT

Mahender Singh,"1530/1-2(4- 16), 1533/1-3",338540.71

Vijender Singh, Mahender Singh,

Vishandas, Hardeen",1532(4-16),169270.35

Ramesh Bhardwaj,1527/1(2-0),225673.80

Chander Singh,1470(4-16),871345.60

procedure, mode and manner of deposit provided in Section 31(2) of the 1894 Act in the event of happening of any of the contingencies contemplated",,

therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of Section",,

24(2), the compensation shall be regarded as â??paidâ? if the compensation has

been offered to the person interested and such compensation has",,,

been deposited in the court where reference under Section 18 can be made on happening of any of the contingencies contemplated under Section,,

31(2) of the 1894 Act. In other words, the compensation may be said to have been "paid" within the meaning of Section 24(2) when the Collector",,,

(or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount,,

available to the interested person to be dealt with as provided in Sections 32 and 33.,,,

18. 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are",,,

prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so",,,

provided. It is settled proposition of law (classic statement of Lord Roche in Nazir Ahmad[1]) that where a power is given to do a certain thing in a,,

certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.",,,

19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since",,,

they did not receive the compensation, the amount (Rs.27 crores) was deposited in the government treasury. Can it be said that deposit of the amount",,,

of compensation in the government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think,,

so. In a comparatively recent decision, this Court in Agnelo Santimano Fernandes[2], relying upon the earlier decision in Prem Nath Kapur[3], has",,,

held that the deposit of the amount of the compensation in the state's revenue account is of no avail and the liability of the state to pay interest,,

subsists till the amount has not been deposited in court.,,,

20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five",,,

years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the,,

landowners/persons interested nor deposited in the court. The deposit of compensation amount in the government treasury is of no avail and cannot be,,

held to be equivalent to compensation paid to the landowners/persons

interested. We have, therefore, no hesitation in holding that the subject land",,,
acquisition proceedings shall be deemed to have lapsed under Section 24(2) of
the 2013 Act.â??,,

7. Taking into consideration the submissions made and the stand taken by the
LAC in the counter affidavit, we are of the considered view that the",,,

necessary ingredients for the application of Section 24(2) of the 2013 Act, as has
been interpreted by the Supreme Court of India, stand satisfied.",,

8. Since the award having been announced more than five years prior to the
commencement of the 2013 Act and, having regard to the stand taken by",,,

the LAC and the fact that the compensation has not been tendered to the
petitioner, 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.",,

9. The petition stands disposed.,,

CM.APPL 38353/2017(stay),,

10. The application stands disposed of in view of the order passed in the writ
petition.,,