

(2018) 02 DEL CK 0486

In the Delhi High Court

Case No : Civil Writ Petition No. 4251 Of 2016

Sunita Devi And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 19-02-2018

Acts Referred:

Constitution Of India, 1950 — Article 226
Code Of Civil Procedure, 1908 — Order 1 Rule 10
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) 02 DEL CK 0486

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

Bench : Division Bench

Advocate : Gaurav Puri, Dhan Singh, Vijya Pratap Singh, Shweta Pandey, Mini Pushkarna, Anushruti, Akshay Makhija, Aditya Goyal, Mahima Bahl

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

CM.APPL 6478/2018 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 4251/2016

3. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceeding pertaining to the land of the petitioners admeasuring 1 bigha 15 biswas comprised in Khasra no.272 min., situated in the revenue estate of village Jasola, New Delhi

(hereinafter referred to as the "subject land") stands lapsed in view of section 24(2) of Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') as although the physical possession of the subject

land has been taken but compensation has not been tendered to the petitioners.

4. The necessary facts to be noticed for disposal of this writ petition are that in this case a notification under section 4 of the Land Acquisition Act,

1894 (the Act in short) was issued on 06.04.1964 and a declaration under section 6 of the Act was made on 07.12.1966. Thereafter, an award

bearing no.4/1997-98 was passed on 05.12.1997.

5. Mr. Puri has drawn attention of the Court to the counter affidavit filed by the LAC, more particularly paras 7 and 8, which read as under :-

7. That as regards physical possession, perusal of record shows that possession of Khasra no. 272 min (01-9) was taken over on

06.08.2009 and physical possession of Khasra no. 272 min (00-04) was taken over on 23.11.2012 and handed over to DDA. As regards the

compensation, it is submitted that the land in question was originally owned by Late Sh. Radhey Shyam S/o Munna Lal, who was absolute

owner of land admeasuring 1 bigha 15 biswa comprising Khasra no. 272 min. Thus the compensation with respect to Khasra 272 min. was

to be paid to Late Sh. Radhey Shyam.

8. That, as per the Naksha Muntzamin, the compensation with respect to the land in question comprised in Khasra no. 272 min. has not been

paid. Statement A of Award no. 4/97-98 Village Jasola is also not available with the Accounts Branch of LAC.

6. Counsel for LAC submits that although possession of the subject land has been taken but the compensation has not been tendered. None is present

for the DDA. No counter affidavit has been filed by the DDA.

7. Mr. Puri submits that in view of the categorical assertions made by the LAC in the counter affidavit that no compensation has been tendered, the

case of the petitioners is fully covered by the provision of section 24 (2) of the 2013 Act.

8. We have heard learned counsel for the parties. Paras 7 & 8 of the counter affidavit filed by LAC, which we have reproduced above confirms that

the compensation has not been tendered to the petitioners. Although, there is nothing on record to show that the land has been put to use, however,

Mr. Puri submits that the land has been put to use and thus the petitioners would

only be entitled to compensation as per 2013 Act. Resultantly, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed. However, petitioners would only be entitled to compensation as per 2013 Act, which would be paid within one year from today. We make it clear that we have not expressed any opinion with regard to title over the land in question.

9. The writ petition is disposed of.

CM.APPL 6477/2018 (impleadment)

10. This is an application under Order 1 Rule 10 C.P.C. filed by four applicants claiming ownership and possession over the part of the land in question.

11. Notice.

12. In view of the order passed in the writ petition to the effect that we have not expressed any opinion with regard to the title of the land, it is agreed that no further orders are required to be passed in this application.

13. Accordingly, the application stands disposed of.

CM APPL 17941/2016 (stay)

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