

(2018) 02 DEL CK 0571

In the Delhi High Court

Case No : Civil Writ Petition No. 6775 Of 2016

Urmila Sharma

APPELLANT

Vs

Land Acquisition Collector / A.D.M. & Ors

RESPONDENT

Date of Decision : 23-02-2018

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

Citation : (2018) 02 DEL CK 0571

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

Bench : Division Bench

Advocate : Anupriya Singh, Atul Tripathi, Yeeshu Jain, Jyoti Tyagi, Kunal Sharma

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceeding with respect to

the land of the petitioner i.e. plot no.37A measuring 100 sq. yds. out of Khasra no.624/2 (3-14) & 625/2 (2-12), situated in the revenue estate of village

Roshanpura, abadi known as Shyam Vihar, Delhi (hereinafter referred to as the "subject land") stands 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 to the petitioner.

2. 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 07.04.2006 and a declaration under Section 6 of the Act was made on 04.04.2007. Thereafter, an award bearing no.08/2008-09/SW was announced on 14.11.2008.

3. Mr. Jain, learned counsel appearing for the LAC has drawn attention of the Court to para 4 of the counter affidavit, which reads as under and

submits that the petitioner is not the recorded owner and the land vests in Gaon Sabha :-

4. That the aforesaid acquisition proceedings in respect to the subject land bearing plot no.37A measuring 100 sq. yds. out of Khasra no.624 &

625 situated in the revenue estate of village Roshanpura does not fall within the purview of Section 24 of the Right to Fair Compensation and

Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 as the possession of the subject property has not been taken due to built

up. Further, as per the records available with the Department, the subject land is vested in Gaon Sabha and thus the petitioner herein is not entitled to

any benefits under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act,

2013.

4. Counsel for the petitioner submits that an identical issue had arisen before another Division Bench of this Court in the case of Sanjeev Solanki Vs.

Delhi Development Authority and Ors, W.P. (C) 1999/2015, decided on 24.01.2017, paragraph 5 reads as under:-

5. While we have declared that the subject acquisition has lapsed, it is made clear that this would not amount to giving title to the petitioner or

perfecting the petitioner's title inasmuch as Mr.Jain has taken the plea in the counter-affidavit filed on behalf of the respondent no.2 that the Gaon

Sabha has been shown as the recorded owner. This fact is disputed by the learned counsel for the petitioner. But, we are not entering into the

controversy of title which may be sorted out elsewhere. Insofar as the acquisition is concerned, the same has lapsed because neither physical

possession was taken over nor compensation was paid.

5. We have heard learned counsel for the parties. Since, in the present case, neither the physical possession of the subject land has been taken (being

built up) nor compensation has been tendered and the award having been announced more than five years prior to the commencement of the 2013

Act, the case of the petitioner would be fully covered by the provisions of Section 24 (2) of the 2013 Act.

6. As far as ownership of subject land is concerned, we make it clear that we have not expressed any opinion with regard to the title of the subject

land and the same is kept open, which would be decided in appropriate courts of jurisdiction.

7. Resultantly, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.

8. The writ petition is disposed of.