

(2018) 03 DEL CK 0410

In the Delhi High Court

Case No : Civil Writ Petition No. 4483 Of 2016

Varsha Rani Garg

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 12-03-2018

Acts Referred:

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

Citation : (2018) 03 DEL CK 0410

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

Bench : Division Bench

Advocate : Triloki Nath Garg, Nishtha Garg, Yeeshu Jain, Jyoti Tyagi, Arjun Pant

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The petitioner seeks a declaration that the acquisition proceedings initiated with respect to land of the petitioner measuring 400 sq. yds. out of Khasra Nos.61/9/2 & 61/12, Abadi known as Tikri Kalan Extn. situated in the area of Tikri Kalan, Delhi (hereinafter referred to as "the subject land") is deemed to have lapsed in view of the 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 possession of the subject land has been taken nor the compensation has been paid.

2. Counsel for the petitioners submits that in this case a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 15.06.2006. A Section 6 declaration was made on 14.06.2007. Thereafter, an Award bearing No.06/DC(W)/2007-08 was rendered by the Land

Acquisition Collector on 19.05.2015. Reliance is also placed on the counter affidavit filed by the LAC, as per which, neither physical possession of the subject land could be taken nor compensation has not been paid in support of the submissions so made.

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

4. Para 4A of the counter affidavit filed by the LAC is reproduced as under:

"4A. That it is submitted that the lands of village Tikri Kalan were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 15.6.2006 which was followed by the Notification under Section 6 of the Act dated 14.6.2007. The Award was also passed vide Award No.6/2007-08 dated 1.5.2008 however the physical possession of the subject land falling in khasra number 61/9/2 and 61/12 could not be taken nor the compensation have been paid."

5. Counter affidavit has also been filed by the DDA, Para 3(k) of which is reproduced as below:

"3(k) I say that as per the claim of the petitioner that he is the owner of land measuring 400 sq. yards bearing No.61//9/2 and 61//12, Abadi known as Tikri Kalan Extension, Village Tikri Kalan, Delhi. It is submitted that as per the land record, the said land bearing Khasra No.61//9/2 and 12 of Village Tikri Kalan was notified under Section 4 dated 15.6.2006 and Section 6 dated 14.6.2007 for public purpose for residential space of the workers of PVC market under Planned Development of Delhi under the provisions of the Land Acquisition Act, 1894. After notifications, the land was acquired vide Award No.6/DC(W)/2007-08. The physical possession of the same has not been handed over to the DDA by LAC/ L&V Department, Govt. of NCT of Delhi for the reason that the property is built up."

6. Having heard learned counsel for the parties and taking into consideration the averments made by the LAC and DDA in their counter affidavits, we are satisfied that neither physical possession of the land has been taken nor compensation has been tendered. Resultantly, the petitioners are 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.

7. The petition stands disposed of.