
(2018) 08 DEL CK 0338

In the Delhi High Court

Case No : Civil Writ Petition No. 2714 Of 2017

Veer Wati And Ors

APPELLANT

Vs

Land Acquisition Collector

RESPONDENT

Date of Decision : 16-08-2018

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

Citation : (2018) 08 DEL CK 0338

Hon'ble Judges : G.S.SISTANI, J;SANGITA DHINGRA SEHGAL, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

G.S.SISTANI, J. (ORAL)

1. Counter affidavit filed on behalf of LAC has been returned under objections. Mr. Yeeshu Jain, counsel for the LAC has handed over the counter

affidavit in Court, which is taken on record.

2. This petition has been filed by the petitioners under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings

initiated in respect of the land of petitioners comprised in Khasra no.142/1 measuring 11 bighas 12 biswas, situated in the revenue estate of village

Kotla, Delhi (hereinafter referred to as "the subject land") are deemed to have 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 compensation has been tendered to the petitioners nor possession of the subject land has been taken.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 13.11.1959.

Thereafter a Section 6 declaration was made on 20.06.1966. An Award bearing no.19/1976-77 was rendered on 05.01.1977.

4. Counsel for the petitioners submits that in this case neither compensation has been tendered to the petitioners nor possession of the subject land has been taken and thus, the acquisition proceedings initiated in respect of land of the petitioners are liable to be lapsed in view of Section 24(2) of 2013 Act.

5. Counter affidavit has been filed by the LAC. Relevant portion of para 4 of the counter affidavit filed by the LAC reads as under:

4. Note :- Total area of Khasra no.142 is (32-17).

The Road is in area (3-3). The area (29-14) is acquired vide Award no.19/76-77 of village-Kotla. The Possession of area (18-2) has been taken over by concerned department and area 11-12 has not been taken over due to built up as per available record.

6. We have heard the learned counsel for the parties and considered their rival submissions.

7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that possession of the subject land i.e. 11 bigas 12 biswas has not been taken due to the area being built up and thus, one of the two necessary ingredients of Section 24(2) of 2013 Act is accordingly met. We are also informed that compensation has not been tendered.

8. Having regard to the fact that no compensation has been tendered to the petitioners and also possession of the subject land has not been taken and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act, thus, the petitioners are 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 writ petition stands disposed of.