

Maan Softech Pvt. Ltd. Vs. Union of India and ors

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Court : Delhi

Decided On : Nov-03-2014

Judge : Badar Durrez Ahmed

Appellant : Maan Softech Pvt. Ltd.

Respondent : Union of India and ors

Judgement :

30 IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

03. 11.2014 W.P.(C) 5784/2014 & CM142532014 MAAN SOFTECH PVT. LTD.
..Petitioner versus ..Respondents UNION OF INDIA & ORS Advocates who
appeared in this case: For the Petitioner : Mr Sumit Bansal, Mr Ateev Mathur and
Ms Richa Oberoi. For the Respondents : Mr Ajay Diggpaul with Kunal Punj for UOI.
Mr Yeeshu Jain and Mr Siddharth Panda for LAC/L&B. Mr Dhanesh Relan and Mr
Arush Bhandari for DDA. CORAM: HON'BLE MR JUSTICE BADAR DURREZ
AHMED HON'BLE MR JUSTICE V. KAMESWAR RAO

JUDGMENT

BADAR DURREZ AHMED, J (ORAL) 1. The petitioner seeks the benefit 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) which came into effect on 01.01.2014. A declaration is sought to the effect that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter

referred to as the 1894 Act) in respect of which Award No.15/87-88 dated 05.06.1987 was made, inter alia, in respect of the petitioners land comprised in Khasra Nos.1307(1-13), 1314/1(0-11), 1314/2(0-2), 1314/3(0-6), 1314/4(2-0), 1314/5(1-8), 1314/6(0-6), 1315 min (0-14), 1320(2-8) and 1321/1(2-19) measuring 12 bighas and 7 biswas in all in village- Chatterpur, shall be deemed to have lapsed.

2. It is an admitted position that physical possession of the subject land has not been taken by the land acquiring agency. However, insofar as compensation is concerned, while the petitioner claims that no compensation has been paid to the petitioner, the respondents contend that compensation has been paid on account of the fact that it was deposited in court pursuant to an order dated 30.12.2013 passed by a Vacation Judge of this court in CM(M) No.1411/2013, except in respect of Khasra No.1307 for which, admittedly, no compensation has been paid.

3. Insofar as the question as to whether compensation has been paid or not paid in the circumstances mentioned above, the issue is no longer open to debate. A similar plea was taken by the respondents in Gyanender Singh & Ors. v. Union of India & Ors. in WP(C) No.1393/2014 decided on 23.09.2014, where there was inter alia reference to CM(M) No.1411/2013. In that case, it was held that compensation cannot be regarded as having been paid merely on the deposit of the same in court unless and until it has first been offered to the person interested and he has refused to accept the same. In the present case, it is an admitted position that the compensation amount was tendered in this court without first being offered to the person interested, namely, petitioner herein. Consequently, the deposit of the compensation amount in court cannot be construed as a payment of compensation. We must also note that in the order dated 30.12.2013, the learned Vacation Judge was careful to note that the said order was without prejudice to the rights and contentions of the land holders. In view of the position in Gyanender Singh (supra), which is based upon the decision of the Supreme Court in Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 it cannot be concluded that the respondents have paid any compensation to the petitioner.

4. As a consequence of the above discussion, it is clear that neither physical possession of the subject land has been taken by the land acquiring agency nor has any compensation been paid to the petitioner. The award was made more than five years prior to the commencement of the 2013 Act. As such, all the necessary ingredients of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this court in the following decisions stand satisfied:- 5. (1) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 (2) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC564 (3) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No.8700/2013 decided on 10.09.2014; (4) Surender Singh v. Union of India & Others: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and Therefore, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are deemed to have lapsed. It is so declared.

6. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. BADAR DURREZ AHMED, J V. KAMESWAR RAO, J NOVEMBER03 2014/mk

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