

Vikramjit Singh and anr Vs. Union of India and ors

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Court : Delhi

Decided On : Nov-17-2014

Judge : Badar Durrez Ahmed

Appellant : Vikramjit Singh and anr

Respondent : Union of India and ors

Judgement :

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

17. 11.2014 W.P.(C) 4174/2014 & CM83712014 VIKRAMJIT SINGH & ANR
Petitioners versus UNION OF INDIA AND ORS Respondents
Advocates who appeared in this case: For the Petitioners : Mr N.S.Vasisht, Mr Vishal Singh and Ms Jyoti Kataria. For the Respondents : Mr Hashmat Nabi for UOI. Mr Yeeshu Jain and Ms Jyoti Tyagi for LAC/L&B. Ms Mrinalini Sen Gupta and Ms Mrinmoi Chatterjee for DDA. CORAM: HON'BLE MR JUSTICE BADAR DURREZ AHMED HON'BLE MR JUSTICE SIDDHARTH MRIDUL

JUDGMENT

BADAR DURREZ AHMED, J (ORAL) 1. By way of this writ petition the petitioners seek 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. The petitioner No.2 is the sister of petitioner No.1. They seek a declaration that the

acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) and in respect of which Award No.13/87-88 dated 16.05.1987 was made, inter alia, in respect of the petitioners land comprised in Khasra No.245 measuring 12 bighas and 12 biswas in Village Said-ul-Ajaib be deemed to have lapsed.

2. It is an admitted position that neither physical possession of the subject land has been taken by the land acquiring agency, nor has any compensation been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:(i) (ii) (iii) (iv) 3. Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC564 Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No.8700/2013 decided on 10.09.2014; Surinder Singh vs. Union of India and Ors.: W.P.(C) 2294/2014 decided 12.09.2014 by this Court. The learned counsel for the respondents, however, contends that the original recorded owner Smt. Chand Ujjal Singh in respect of 7 bighas and 12 biswas in the aforesaid Khasra No.245 still stands in her name and the names of the petitioners have not been substituted. It is the case of the petitioners that Smt. Chand Ujjal Singh passed away on 18.03.2009. But, before that she left a Will in which her portion of 7 bighas and 12 biswas was bequeathed to the petitioner No.2. The petitioner No.1, according to the learned counsel, was made the executor of the Will. Therefore, according to the learned counsel, both the petitioners who could be owners of the subject land either by way of inheritance or by way of Will are represented in court.

4. The learned counsel for the respondents submitted that though it is claimed that Smt. Chand Ujjal Singh expired in 2009 her name still appears in the revenue records. Mr Vasisht appearing on behalf of the petitioners submitted that the revenue records are not documents of title and for some reason the petitioners names have not been mutated.

5. We are not concerned about the title in respect of the subject land and in any event there is no dispute between the petitioners. This much is clear that the physical possession of the subject land has not been taken nor has the compensation been paid by the respondents and the award is more than five years prior to the commencement of the 2013 Act. Therefore, the subject acquisition in respect of the lands mentioned in the petition has lapsed in view of the deeming provisions of Section 24(2) of the 2013 Act.

6. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. BADAR DURREZ AHMED, J SIDDHARTH MRIDUL, J NOVEMBER17 2014 mk

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