

Sanjeev Solanki vs.delhi Development Authority & Ors

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Court : Delhi

Decided On : Jan-24-2017

Appellant : Sanjeev Solanki

Respondent : Delhi Development Authority & Ors

Judgement :

\$~84 IN THE HIGH COURT OF DELHI AT NEW DELHI % + W.P.(C) 1999/2015 & CM No.3577/2015 Judgment delivered on:

24. 01.2017 SANJEEV SOLANKI Petitioner versus DELHI DEVELOPMENT AUTHORITY & ORS Respondents Advocates who appeared in this case: For the

... Petitioner

For the Respondent/L&B/LAC : Mr Yeeshu Jain with Ms Jyoti Tyagi For the Respondent/DDA : Mr J.V. Rana : Mr Himanshu Bajaj, ASC with Ms Sakshi Agrawal CORAM: HON'BLE MR JUSTICE BADAR DURREZ AHMED HON'BLE MR JUSTICE ASHUTOSH KUMAR BADAR DURREZ AHMED, J (ORAL)

JUDGMENT

1 The counter-affidavit handed over by Mr Yeeshu Jain on behalf of the respondent No.2 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit as he reiterates the contents of the writ petition.

2. By way of this writ petition, the petitioner is seeking 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, consequently, seeks a declaration that the acquisition proceeding initiated WP(C) 1999/2015 Page 1 of 3 under the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) and in respect of which Award No.1/2008-09 dated 30.06.2008 was made, inter alia, in respect of the petitioners land comprised in Khasra No.5 measuring 3 bighas 16 biswas in Village Nasirpur shall be deemed to have lapsed.

3. 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 petitioner. 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) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 (ii) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC564 (iii) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No.8700/2013 decided on 10.09.2014; and (iv) Surender Singh v. Union of India and Ors.: W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

4. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared. WP(C) 1999/2015 Page 2 of 3 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 petitioners 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.

6. A copy of this order be sent to the standing counsel for the Government of NCT of Delhi so that the appropriate Gaon Sabha, through the BDO (South-West), can be informed accordingly and, if any necessary steps are to be taken, the same can be taken.

7. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. BADAR DURREZ AHMED, J ASHUTOSH KUMAR, J JANUARY24 2017
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