

Laxmi Narain Gupta vs.delhi Development Authority & Ors

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Court : Delhi

Decided On : Jan-30-2017

Appellant : Laxmi Narain Gupta

Respondent : Delhi Development Authority & Ors

Judgement :

\$~97 IN THE HIGH COURT OF DELHI AT NEW DELHI % + W.P.(C) 6320/2014 & CM152502014, 18111/2014 Judgment delivered on:

30. 01.2017 LAXMI NARAIN GUPTA

... Petitioner

versus DELHI DEVELOPMENT AUTHORITY & ORS

... RESPONDENTS

Advocates who appeared in this case: For the

... Petitioner

For the Respondent LAC/L&B For the Respondent DDA : Mr Gaurav Sarin with Ms Charu Sarin : Mr Yeeshu Jain with Ms Jyoti Tyagi : Mr Dhanesh Relan CORAM: HON'BLE MR JUSTICE BADAR DURREZ AHMED HON'BLE MR JUSTICE JAYANT NATH BADAR DURREZ AHMED, J (ORAL)

JUDGMENT

1 By way of this writ petition 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. The petitioner, consequently, seeks a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) and in respect of which Award No.21/1970-71 dated 28.07.1970 was WP(C) 6320/2014 Page 1 of 4 made, inter alia, in respect of the petitioners land comprised in khasra nos 2, 3, 310

min, 3103/

min, 3104/

min and 3108/

min (to the extent of 1370 Sq.Yds.) in village Karkardooma, Shahdara, Delhi, shall be deemed to have lapsed.

2. The learned counsel for the petitioner states that the physical possession of the subject land is with the petitioner and was not taken over by the land acquiring agency. There is no specific denial of this statement in the counter affidavit of respondent no.3. However, in paragraph 7 of the said affidavit there is a general denial and a statement that the petitioner is required to be put to strict proof of his possession. The learned counsel for the petitioner submitted that there are orders dated 07.12.2001 passed by the learned Additional District Judge in suit No. and the order dated 13.03.2002 in RFA1832002 passed by a learned Single Judge of this court which clearly show that the possession of the subject land is with the petitioner. In these circumstances, we will have to hold that the physical possession of the subject land has not been taken by the land acquiring agency.

3. Insofar as compensation is concerned, the learned counsel for the petitioner submits that that, too, has not been paid to the petitioner. On the WP(C) 6320/2014 Page 2 of 4 other hand, Mr Yeeshu Jain places reliance on paragraph 6 of the counter affidavit which is to the following effect:-

"6. That it is submitted that in pursuance of the said Award, the recorded owners have challenged the same before the High Court whereby stay order was passed in CWP No.3

and 3

which is reflected in the typed copy of the Award filed by the petitioner. However in the translated copy of Naksha Muntazamin from Urdu to English, there is an entry which is being reproduced herein as under:

"In terms of order ADJ of file No.Acc No.21/1

1/

coming letter on date 24.7.75 villager Karkardooma, Khasra No.of serial 518 LAC in case No.1

is stay on 1/11/74. Interest of stay period will not pay to the applicant date 12.8.75 sd/-" It is submitted that from the above language, it could be inferred that the payment of compensation may have been made to the recorded owner after deduction of interest for the period of stay however no other record is presently available since the records are very old and are in dilapidated and torn condition. In response to the said paragraph Mr Sarin appearing on behalf of the petitioner submitted that the writ petitions mentioned in the above extracted paragraph 6 do not pertain to the petitioner and were not filed by the petitioner. Therefore, whatever be the recording in the Naksha Muntazamin, the same does not relate to the petitioner at all. In these circumstances, as the respondent Land Acquisition Collector does not have any other evidence of payment of compensation, it will have to be concluded that compensation has also not been paid to the petitioner.

4. As a result, neither has physical possession of the subject land been taken by the land acquiring agency, nor has any compensation been paid to WP(C) 6320/2014 Page 3 of 4 the petitioner. The award having been 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.

5. 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.

6. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. BADAR DURREZ AHMED, J JAYANT NATH, J JANUARY30 2017 kb WP(C) 6320/2014 Page 4 of 4

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