

Gianender Singh & Ors vs.union of India & Ors.

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Court : Delhi

Decided On : Jan-31-2017

Appellant : Gianender Singh & Ors

Respondent : Union of India & Ors.

Judgement :

\$~65 IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment delivered on:

31. 01.2017 + W.P.(C) 6835/2015 & CM124982015 & 32415/2016 GIANENDER SINGH & ORS ...

... Petitioner

s UNION OF INDIA & ORS. Advocates who appeared in this case: versus ...

... RESPONDENTS

: Mr Sandeep Dagar. : Mr Anuj Aggarwal. : Mr Yeeshu Jain and Ms Jyoti Tyagi :
Mr Kush Sharma For the

... Petitioner

s For the UOI For the L&B For the DDA CORAM:-

"HONBLE MR JUSTICE BADAR DURREZ AHMED HONBLE MR JUSTICE ASHUTOSH KUMAR 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 petitioners, consequently, seek a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter W.P.(C) No.6835/2015 Page 1 of 4 referred to as the 1894 Act) and in respect of which Award No.157/1986-87 dated 19.09.1986 was made, inter alia, in respect of the petitioners land, comprised in Khasra Nos. 31//7(0-04), 31//13(2-16) and 31//18//1(1-02) measuring 4 bighas and 2 biswas in all, in Village Palam, New Delhi, shall be deemed to have lapsed.

2. The case of the petitioners is that the physical possession of the said land is still with them. Although the learned counsel for the land acquisition collector submits that the possession was taken on 13.10.1986, the affidavit on behalf of the DDA (respondent no.3) clearly indicates that it was only symbolic possession which was taken on 13.10.1986. Therefore, the plea taken by the petitioners would have to be accepted to the effect that physical possession of the said land was not taken by the land acquiring agency. Insofar as the compensation is concerned, it is the case of the respondents that the said amount was deposited in the treasury, though the same had not been paid to the land owners nor had it been offered to the land owners before any such deposit. W.P.(C) No.6835/2015 Page 2 of 4 3. That being the position, the question of payment of compensation would, therefore, have to be construed in the light of the various decisions rendered by the Supreme Court and this Court in:-

"(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. In Pune Municipal Corporation (supra) it has been held that unless and until the compensation has been tendered to the persons interested, mere deposit of the compensation amount in a court or a treasury would not amount to payment of compensation. This aspect has also been considered in Gyanender Singh & Others v. Union Of India & Others: WP (C) 1393/2014 decided by a Division Bench of this Court on 23.09.2014. Consequently, the mere deposit in the

treasury, without being offered or tendered to the persons entitled would not ipso facto amount to payment of compensation.

9. As such, in the present case, neither physical possession of the subject land has been taken nor has any compensation been paid to the W.P.(C) No.6835/2015 Page 3 of 4 petitioners. The Award was made more than five years prior to the coming into force of the 2013 Act.

10. As a result, the petitioners are 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.

11. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. BADAR DURREZ AHMED, J ASHUTOSH KUMAR, J JANUARY31 2017/ab W.P.(C) No.6835/2015 Page 4 of 4

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