

Shri Krishan & Ors vs.shri Krishan & Ors

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Court : Delhi

Decided On : Jan-31-2017

Appellant : Shri Krishan & Ors

Respondent : Shri Krishan & Ors

Judgement :

\$~78 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + W.P.(C) 8023/2015 & CM164472015 Judgment delivered on:

31. 01.2017 SHRI KRISHAN & ORS versus UNION OF INDIA & ORS.

... Petitioner

S

... RESPONDENTS

: Mr Rajesh Gupta. : Mr R.L. Goyal with Mr Jitendra Kr. Tripathi. : Mr Sanjeev Sabharwal. : Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates who appeared in this case: For the

... Petitioner

s For the Respondent Nos.1 & 2 For the Respondent No.3 For the Respondent Nos.4 & 5 CORAM:-

"HONBLE MR JUSTICE BADAR DURREZ AHMED HONBLE MR JUSTICE ASHUTOSH KUMAR JUDGMENT BADAR DURREZ AHMED, J (ORAL) 1. 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. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) in respect of which Award No.16/2005-06 dated 08.09.2005 was made, inter alia, in respect W.P.(C) No.8023/2015 Page 1 of 3 of the petitioners land comprised in Khasra No.25//11(4-04) total measuring 4 bighas 4 biswas in all in village Mubarakpur Dabas shall be deemed to have lapsed.

2. The learned counsel for the respondents, Land Acquisition Collector, submits that the physical possession of 2 bighas 16 bishwas out of the aforesaid land was taken on 04.04.2006. This is disputed by the learned counsel for the petitioners. Insofar as the balance 1 bigha 8 bishwas falling in the said khasra is concerned, it is an admitted position that the physical possession has not been taken. As regards the issue of compensation, it is an admitted position that the same has not been paid to the petitioners.

3. Without going into the controversy of physical possession with regard to part of the land, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid. The necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:-

"(1) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 W.P.(C) No.8023/2015 Page 2 of 3 4. (2) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC564 (3) (4) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No.8700/2013 decided on 10.09.2014; Surender Singh v. Union of India & Others: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and (5) Girish Chhabra v. Lt. Governor of Delhi and Ors: WP(C) 2759/2014 decided on 12.09.2014 by this Court. 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 land are deemed to have

lapsed. It is so declared.

5. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. JANUARY31 2017/ab BADAR DURREZ AHMED, J ASHUTOSH KUMAR, J W.P.(C) No.8023/2015 Page 3 of 3

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