

Devender Kumar and Ors. Vs.govt of Nct of Delhi and Ors.

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Court : Delhi

Decided On : Oct-31-2017

Appellant : Devender Kumar and Ors.

Respondent : Govt of Nct of Delhi and Ors.

Judgement :

\$~40 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Judgment:

31. t October, 2017 + W.P.(C) 10983/2016 DEVENDER KUMAR AND ORS.

... Petitioner

s Through: Mr.Vishal Maan, Advocate versus GOVT OF NCT OF DELHI AND ORS.

... RESPONDENTS

Through: Mr.Siddarth Panda, Standing Counsel for LAC/L&B. Mr.Pawan Mathur, Standing Counsel for DDA. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE V. KAMESWAR RAO G.S.SISTANI, J.

(ORAL) 1. Counter affidavit has not been filed. Counter affidavit has been handed over in Court by counsel appearing for LAC. Copy has been supplied to counsel for the petitioner.

2. With the consent of the parties, the writ petition is taken up for final hearing and disposal.

3. The petitioner seeks a declaration to the extent that the proceedings in respect of land measuring 25 bighas and 2 biswas comprised in Khasra Nos.234 (4-16), 235 (4-16), 236(4-16), 272 (4-16), 290 (4-4) and 29 (1-14) situated in the Revenue Estate of village Kotla Mahi Giran, New Delhi and all subsequent proceedings to have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land W.P. (C) No.10983/2016 Page 1 of 4 Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as New Act).

4. Mr.Maam submits that a notification under Section 4 was issued with respect to the subject land on 06.04.1964 bearing no.F-4 (9)/6-L&H under the Land Acquisition Act, 1894 (hereinafter referred to as old Act). On 07.12.1966, a notification under Section 6 of the old Act was issued. On 19.09.1986, an Award bearing no.205/1986-87 was made by respondent no.2. It is the case of the parties that physical possession of the land in question was taken by the respondents and put to use by the DDA to beneficiaries for construction of commercial buildings. The grievance of the petitioners is that despite the possession having been taken the compensation was not released in favour of the petitioners. Learned counsel relies on Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., 2014 3 SCC183 and prays that a declaration be issued that the acquisition stands lapsed. However, he submits that since the land has been put to use, he has instructions only to press for compensation.

5. We have examined the counter affidavit which has been handed over in Court and also heard the learned counsels for the respondents. Para 6 of the counter affidavit reads as under: 6. That the land in question i.e. Khasra No.234(4- 16), 235 (4-16), 236 (4-16), 272 (4-16), 290 (4-4) and 29 (1-14) total ad-measuring 25 bighas 2 biswas situated at the revenue estate of village Kotla Maigrain, New Delhi was notified under section 4 of Land Acquisition Act on 06.04.1964 followed by declaration under section 6 of Land Acquisition Act on 07.12.1966 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the W.P. (C) No.10983/2016 Page 2 of 4 inviting from all the claims interested persons, the interested persons and claims were also filed by the interested persons. The than

Land Acquisition Collector passed Award No.205/1986-87 dated 19.09.1986 after considering the claims of the claimants. Further, possession of the above mentioned land were taken over on 04.12.86, 12.12.96 & 17.07.1987 and handed over to the beneficiary department. Compensation was not paid due to dispute.

6. It is not in dispute that not only possession of the subject land has been taken but the same has also been put to use. The stand of the LAC is that the compensation could not be paid due to the dispute. No supporting document has been filed in support of the submission. No deposit has been made in the referral court. Accordingly, it cannot be held that the compensation was tendered to the petitioners. It would be useful to refer to the observations made in para 17 in the case of Pune Municipal Corporation (supra) wherein it has been held that the compensation is to be deposited in the referral court. The observations of the Supreme Court of India in Para 17 in the case of Pune Municipal Corporation (supra) is reproduced as under: of receipt 17. While enacting Section 24(2), Parliament definitely had in its view Section 31 of the 1894 Act. From that one thing is clear that it did not intend to equate the word paid to offered or tendered. But at the same time, we do not think that by use of the word paid, Parliament intended the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression paid used in this sub-section (sub-section (2) of Section 24). If a literal construction were to be given, then it would amount to ignoring procedure, mode and manner of deposit provided in Section 31(2) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual compensation by W.P. (C) No.10983/2016 Page 3 of 4 payment of compensation. We are of the view, therefore, that for the purposes of Section 24(2), the compensation shall be regarded as paid if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under Section 18 can be made on happening of any of the contingencies contemplated under Section 31(2) of the 1894 Act. In other words, the compensation may be said to have been paid within the meaning of Section 24(2) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in

Sections 32 and 33. 7. For the reasons stated above, the present writ petition is allowed. The claim of the petitioners is restricted to grant of compensation under the New Act. We direct that the compensation be paid to the record owners in terms of 2013 Act within a period of one year. G.S.SISTANI, J OCTOBER31 2017 rb V. KAMESWAR RAO, J W.P. (C) No.10983/2016 Page 4 of 4

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