

Simla Devi and Ors. Vs.union of India and Ors.

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Court : Delhi

Decided On : Feb-02-2018

Appellant : Simla Devi and Ors.

Respondent : Union of India and Ors.

Judgement :

\$~6 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Judgment:

02. d February, 2018 + W.P.(C) 7031/2015 SIMLA DEVI AND ORS.

... Petitioner

s Through: Ms.Geeta Luthra, Senior Advocate with Mr.Prateek Yadav, Advocate.
versus UNION OF INDIA AND ORS.

... RESPONDENTS

Through: Mr.Rajesh Kumar, Mr.Nikhil Kumar and Mr.Atul Krishna, Advocates for
respondent no.1/UOI. Mr.Yeeshu Jain, Standing Counsel with Ms.Jyoti for
respondent/LAC-L&B. Mr.Arun Birbal and Mr.Sanjay Singh, Advocates for
respondent/DDA. Advocate Tyagi, CORAM: HON'BLE MR. JUSTICE
G.S.SISTANI HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL
G.S.SISTANI, J.

(ORAL) 1. At the outset, Ms.Luthra, learned Senior Counsel submits, on
instructions, that land of the petitioner Janak Rani, mentioned at serial no.6 in
Khasra No.58 pertains to only 1 bigha and not 1 bigha 6 biswas as reflected in the

writ petition.

2. The petitioners, who are ten (10) in number seek the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land W.P. (C) No.7031/2015 Page 1 of 5 Acquisition, Rehabilitation and Resettlement Act which came into effect on January 1, 2014 (2013 Act). A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred as the 1894 Act) in respect of which Award No.15/1992-93 dated 19th June, 1992 was made, inter alia, in respect of the petitioners land comprised in the following Khasra numbers deemed to have lapsed. S. No.1.

2. 3.

4.

5. Name Land Details Area Bigha-Biswa Smt. Shimla Devi w/o Shri P.D.Jain Khasra No.58 1-0 Smt. Savitri Devi w/o Shri Inder Das Khasra No.57 1-0 M/s Pyare Lal & Sons (HUF) through Karta Mr.Rajesh Bansal Mr.Deepak Garg s/o Shri Prem Kumar Dr.Arun Gupta s/o Shri Manohar Lal Khasra No.62 1-0 Khasra No.58 1-0 Khasra No.62 1-0 6. Smt.Janak Rani Khasra No.58 1 W.P. (C) No.7031/2015 Page 2 of 5 7. Mr.J.Aggarwal Madhu Bansal Shashi Goel Rupesh Gupta Arun Gupta (the five persons) are the legal heirs of Manohar Lal (now deceased) and owned

each of Khasra No.64 above Khasra No.64 1-0 Khasra No.64 Khasra No.64 Khasra No.64 Khasra No.64 3. Though, the LAC in its counter-affidavit claim that possession of the land in question has been taken over and handed over to the beneficiary department on 21st April, 2006, the petitioners dispute this and maintain the physical possession has not been taken over. However, insofar as the issue of compensation is concerned, it is stated as per statement A compensation was not paid to the recorded owner. Without going into the controversy of physical possession, it is clear 4. 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:-

"W.P. (C) No.7031/2015 Page 3 of 5 (1) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC183 (2) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC (3) (4) 564; 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.

5. 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.

6. An argument has also been raised with regard to the maintainability of the writ petition by the petitioners.

7. We would also like to refer to the judgment of the Supreme Court in the case of Government of NCT of Delhi vs. Manav Dharam Trust & Ors., 2017 6 SCC751 wherein in para 26 Supreme Court has held as under: 26. There is a clear indication that the Act proposes to protect the interest of those persons, among others who are affected by the acquisition. The subsequent purchasers/successors, etc., in the cases before us, are all people affected by the acquisition, and therefore, also they are entitled to seek a declaration on lapse under the 2013 Act. 8. We also refer to an order dated 15th February, 2016 in the case of B.S. Dhillon and Ors. vs. Union of India & Ors., W.P.(C) 2916/2015, decided on 15th February, 2016 relating to the same award i.e. Award No.15/1992-93 dated 19th June, 1992, wherein W.P. (C) No.7031/2015 Page 4 of 5 similar declaration with respect of the land comprised in khasra nos. 62 and 65 in village Behlolpur Khadar, New Delhi has been granted in favour of the petitioners therein.

9. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs. CM No.12883/2015 The application is disposed of, in view of order passed in writ petition G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J FEBRUARY02 2018 ssc W.P. (C) No.7031/2015
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