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Jagdev Singh & Ors vs.union of India & Ors

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SooperKanoon Citation : sooperkanoon.com/1212723

Court : Delhi

Decided On : Feb-12-2018

Appellant : Jagdev Singh & Ors

Respondent : Union of India & Ors

Advocate for Pet/Ap. : Mr. Bansal

Judgement :

$~57 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 10582/2015 Date of Judgment :12th February, 2018 JAGDEV SINGH & ORS .....

... Petitioner
s Through Mr. Sumit Bansal, Ms. Richa Oberoi & Mr. Prateek Banati, Advocates. versus .....

... RESPONDENTS
UNION OF INDIA & ORS Through Mr. Rajesh Kumar & Mr. Nikhil Kumar, Advocates for UOI. Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Ms. Mrinalini Sen with Ms. Kritika Gupta, Advocates for DDA. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL G.S.SISTANI, J.

(ORAL) 1. With consent of the parties, the present writ petition is set down for final hearing and disposal.

2. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to land of petitioner forming part of Khasra no.366 (1-12) and Khasra no.376 (1-06) admeasuring 2 bighas 18 biswas, situated in the revenue estate of village Neb Sarai, New Delhi (hereinafter referred to as the subject land) stands lapsed in view of section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, W.P.(C) 10582/2015 Page 1 of 4 3.

4. Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 2013 Act) as compensation has not been tendered to the petitioners. In this case, a notification under section 4 of Land Acquisition Act, 1894 (the Act in short) was issued on 05.11.1980 and a declaration under section 6 of the Act was made on 21.05.1985. Thereafter, an award bearing no.12/1987-88 was passed on 20.05.1987. The stand of LAC is reflected in para 5 of the counter affidavit, which is reproduced below :-

"5. That it is submitted that the lands of village Neb Sarai were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 5.11.1980, declaration u/s 6 was issued on 21.5.1985. The Award was also passed vide Award No.12/87-88 dated 20.5.1987 and the actual vacant physical possession of the subject land falling in khasra numbers 366 (1-12) & 376 (1-06) total (2-18) was duly taken on 5.9.2005 on the spot by preparing possession proceedings and handed over to the DDA on the spot. However, there is no entry in the Naksha Muntazamin as to whether any payment was made to the petitioners or not and Statement A is not available to ascertain the payment of compensation / shares. The statement A of the Award No.12/87-88 is not traceable. An NCR has also been lodged with the P.S. Neb Sarai bearing LR. No.:

0063. 2017 dated 07/02/2017. However as per the Revenue Deposit Register, the total amount of Rs.8,10,28,938/- of Award No.12/87-88 was deposited in R.D. but the same was later withdrawn vide R.V. No.436 dated 07.05.1993 for the Award No.1/93- 94 Village Kakrola, Delhi as per Dy. Secy. (L&B) Letter No.F.19/(145/88-89/L&B/F.A-20392 dated 07.07.1992. 5. Mr. Bansal, counsel for the petitioner submits that reading of para 5 of the counter affidavit filed by LAC leaves no room

for doubt that the compensation was never tendered to the petitioners. W.P.(C) 10582/2015 Page 2 of 4 6. Mr. Jain, counsel for LAC submits that statement-A is not available and thus it cannot be ascertained whether the compensation was tendered or not.

7. We have heard learned counsel for the parties. Reading of the counter affidavit filed by LAC would show that the possession of the subject land has already been taken. However, as far as compensation is concerned, the stand of LAC is that there is no entry in the Naksha Muntazamin as to whether any payment was made to the petitioners or not. Although the counter affidavit further goes to show that statement-A is not available but the concluding part of this paragraph would show that as per Revenue Deposit Register, a total sum of Rs.8,10,28,938/- of Award No.12/87-88 was deposited in RD but the same was later on withdrawn vide R.V. No.436 dated 07.05.1993 for the Award No.1/93-94 Village Kakrola, Delhi as per Dy. Secy. (L&B) Letter No.F.19/(145/88-89/L&B/F.A-20392 dated 07.07.1992. In fact, it is the case of the LAC that money deposited was withdrawn for the purpose of depositing the same with respect to another award of another village. The effect would be that the compensation was not tendered to the petitioners. Resultantly, in our view, the case of the petitioners is squarely covered by the provisions of section 24(2) of 2013 Act. Consequently, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.

8. The writ petition is disposed of. W.P.(C) 10582/2015 Page 3 of 4 CM APPL268642015 (stay) The application stands disposed of in view of order passed in the writ petition. G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

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