

Shri Kuldeep and Ors vs.delhi Development Authority and Ors.

Shri Kuldeep and Ors vs.delhi Development Authority and Ors.

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Court : Delhi

Decided On : Aug-27-2018

Appellant : Shri Kuldeep and Ors

Respondent : Delhi Development Authority and Ors.

Advocate for Pet/Ap. : Ms. Puja Srivastava

Judgement :

\$~27 * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Judgement:

27. h August, 2018 + W.P.(C) 8510/2017 SHRI KULDEEP & ORS.Petitioners Through: Ms. Puja Srivastava and Mr. Deepak versus Sharma, Advocates. DELHI DEVELOPMENT AUTHORITY AND ORS.Respondents Through: Mr. Yeeshu Jain, Standing Counsel with for Ms. Jyoti Tyagi, Advocate, respondents No.2 & 3 - L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Ms. Gauri Chaturvedi, Advocate for Respondent No.1- DDA CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL SANGITA DHINGRA SEHGAL, J.

(Oral) 1. This is a petition under Article 226 of the Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to 4 Bighas of the land comprised in Khasra No.596min situated in the revenue estate of village Ghazipur, NCT of Delhi (hereinafter referred to as the subject land) are deemed to have lapsed in view of Section 24 (2) of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 2013 Act), as neither the physical possession has been taken nor compensation has been paid to the petitioners. W.P.(C) 8510/2017 Page 1 of 4 2. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) was issued on 13.11.1959, a Declaration under Section 6 of the Act was issued on 20.06.1966 and an Award bearing No.94/1986-87 was passed on 17.09.1986.

3. Ms. Puja Srivastava, learned counsel for the petitioner submits that since the physical possession of the subject land has not been taken and the compensation in respect thereof has not been paid, the petitioners would be entitled to a declaration under Section 24(2) of the 2013 Act. She further submits that her submission is further fortified by the stand taken by the LAC in the counter affidavit. Learned counsel further relies on the decision rendered by the Supreme Court in Govt. of NCT of Delhi Vs. Manav Dharma Trust and another, reported in 2017 (6) SCC751 in response to the stand taken by LAC in the counter affidavit that the petitioners have no locus standi to file the present petition as they are not the recorded owners. Reliance is placed on para 28 of this judgment which reads as under:-

"in interest, 28. Thus, the subsequent purchaser, the assignee, the successor the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a W.P.(C) 8510/2017 Page 2 of 4 declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi. 4. On the other hand, Mr. Yeeshu Jain, learned counsel for the LAC submits that neither the possession of the subject land has been taken nor the compensation been paid to the petitioners as the same is lying deposited in RD. In support of his submissions, counsel for LAC relies on para 5 of the counter affidavit, which read as under:

"5. ..It is submitted that having completed the requisite legal formalities, the then Land Acquisition Collector passed an Award No.94/86-87 dated 17.09.1986 however the possession of subject land falling in khasra number 59 min (4-00) could not be taken nor the compensation be paid as the same is lying deposited in RD. 5. The Learned Counsel appearing for the LAC further submits that the petitioners herein have not placed on record any documents so as to claim their right, title or interest in the subject land, as that of the recorded owners.

6. We have heard the learned counsel for the parties and considered their rival submissions.

7. The learned counsel for the petitioners has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioners. Counsel has also submitted that the objections of the LAC regarding locus standi of the petitioners is misplaced in view of the observations made by the Supreme Court in Manav Dharma Trust (supra) where the rights of the subsequent purchaser have been recognized. W.P.(C) 8510/2017 Page 3 of 4

8. As far as the objection with regard to maintainability is concerned, we find the same to be misplaced in view of the observations made by the Supreme Court in the case of Manav Dharma Trust (supra). We are of the considered view that, the submissions made by the counsel for the LAC that the petitioners have no locus standi to file the present petition as they are the subsequent owners of the subject land, holds no ground.

9. Having regard to the submissions made in the counter affidavit filed by LAC that the possession of the subject land has not been taken and the compensation in respect thereof has not been paid and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration under Section 24(2) of the 2013 Act that the acquisition proceedings initiated under the Act with relation to the subject land, are deemed to have lapsed. It is ordered accordingly.

10. However, we made it clear that we have not expressed any opinion on the title of the subject land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.

11. The writ petition stands disposed of in above terms. SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

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