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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4271/2014**

ABDUL SATTAR

..... Petitioner

Through: Mr. Mohd. Faisal, Advocate.

versus

LAND ACQUISITION COLLECTOR & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
Respondent Nos. 1 and 2.

Mr. Pawan Mathur, Standing Counsel
for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

04.12.2018

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1. The prayer in this petition is for quashing of award Nos. 1956 dated 2nd March, 1967, 1875 dated 18th September, 1965 and 1885 dated 29th January, 1966 in respect of the lands bearing Khasra Nos. 262/1, 262/2, 920/1, 920/2, 938, 967, 977, 996, 1057, 1067, 1072, 1086, 1110/1, 1110/2, 1252, 1471, 1473 and khasra nos. 1424, 1589, 1631, 1643 and also bearing khasra nos. 1422, 1426/1, 1426/2, 1438, 1534, 1537, 1538, 1544/1, 1544/2, 1545/1, 1545/2 situated in the revenue state of Mandoli, Delhi.

2. An alternate prayer is for a direction to the Respondents to pay compensation for the aforementioned acquired land to the Petitioner who claims to be the legal heir of the original owners of the aforementioned land.

3. In seeking to explain the delay in coming to the Court, it is claimed that the Petitioner is an illiterate and very poor person; his father Naseeruddin or his ancestors had no constructive knowledge of any kind of the above land acquisition proceedings; they did not receive any kind of notice under Section 12 (2) of Land Acquisition Act, 1894 and were never informed that the land has been acquired for any purpose. It is further averred that in the last week of April, 2012; a relative of the petitioner came at his Meerut residence and informed him that the land of the Petitioner in Village Mandoli, Delhi had been acquired by Delhi Government way back and all other interested persons have received the compensation. He further informed that part of the land of the Petitioner's ancestors was still lying vacant.

4. It is only thereafter that the records of the aforementioned three awards were inspected in the office of the Land Acquisition Collector/ADM (North East) and applications were filed on 24th May, 2012 seeking release of payment of compensation.

5. It is stated that after the law of persuasion in March, 2013, a letter was sent by the LAC/AD-Shahdara District to the District magistrate/Collectorate, Meerut to verify the genuineness of the documents filed by the Petitioner. According to the Petitioner, the DM had sent the verification report and the

Petitioner was given to understand that they will receive the compensation very soon.

6. It is stated that in April 2014, the Petitioner came to know that under three notifications dated 13th November, 1959, 10th November, 1960 and 24th October, 1961 issued under Section 4 of the Land Acquisition Act, 1894, the evacuee lands have been excluded and that the Petitioner's ancestors were declared evacuees and their properties were declared as evacuee properties. Accordingly, it is stated that the acquisition of such evacuee land was void and illegal.

7. The case of the Petitioners is that with the family having migrated to Meerut in Uttar Pradesh, they were completely in the dark about the status of these evacuated properties and had no knowledge of their acquisition under Sections 4 and 6 of the Land Acquisition Act, 1894.

8. In response to the notice issued in these petitions, a counter affidavit is being filed by the LAC in which it is pointed out that possession of the subject lands was taken about in the years 1964-1965 and compensation was sent to the reference Court under Sections 30-31 of the Land Acquisition Act, 1894. Admittedly, the Petitioner's father was alive till 1998 who took no action to challenge the acquisition proceedings in any Court.

9. The award themselves noted almost all the interested persons who had filed complaints in response to the notices issued. It is pointed out that Award No. 1875 at Serial Nos. 22-26 duly reflected the names of the forefathers of the

Petitioner who had in fact filed the response to the LAC. It is pointed out that it is unbelievable that between 1947-1998, none of the ancestors of the Petitioner including the father of the Petitioner came forward to lay any claim to either the lands or to the compensation.

10. It may be noted that three separate counter affidavits have been filed for the three different awards by LAC. The DDA has filed a separate counter affidavit.

11. The original recorded owners failed to approach the Court questioning the acquisition proceedings. The Petitioner had also not communicated how he had any right, title over the lands in question.

12. Learned counsel for the Petitioner has apart from reiterating the averments in the writ petition referred to some of the documents placed on record to show that he is the successor-in-interest of the original recorded owners of the lands in question. He maintained that it is only in 2012 that he has come to know about the acquisition proceedings.

13. There is an obvious delay in approaching this Court. The Petitioner is seeking a setting aside of land acquisition awards dated 28th September, 1965, 29th January, 1966 and 2nd March, 1967 by filing this petition on 10th July, 2014.

14. The explanation offered for the delay in approaching this Court is most unconvincing. It is simply not possible to accept that for nearly 50 years the

Petitioner was unaware of the fact that his ancestral lands were in the first instance declared as evacuee properties or that they were sought to be acquired under the LAC.

15. In similar circumstances in ***Delhi Development Authority v. Shyam Sundar Khanna & Ors***, 2004 (72) DRJ 356 (SC), when this Court at the instance of certain Petitioners set aside the land acquisition proceedings in respect of what was claimed to be evacuee property, the Supreme Court set aside the order of this Court on the ground that the High Court ought not to have entertained the Petitioner at all in the first place.

16. It was held that on the facts of that case, it was clear that there was gross delay and laches on the part of the Petitioners who approached the High Court and that “the High Court was clearly in error in entertaining such writ petition.” On this ground itself, the writ petition deserves to be dismissed.

17. Along with the counter affidavit of the LAC, documents have been placed on record which clearly shows that the properties in question were duly acquired by issuing notifications under the Land Acquisition Act, 1894 and the awards passed also reflect that there were claimants to compensation who have responded to the notices.

18. At this point of time, it is not possible for the Court to investigate whether in fact the ancestors of the Petitioner had noticed all the proceedings and why they did not approach the Court for relief if in fact they had not received any such notices.

19. Irrespective of what the present status of the Petitioner might be, such extraordinary delay in approaching the Court makes it impossible for the Court to examine disputed questions of fact.

20. Consequently, on the ground of delay and laches, the petition is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 04, 2018

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