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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2794/2017**

BINDU BATRA

..... Petitioner

Through: Mr. M.P. Bhargava, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

Ms. Shobhana Takiar, Advocate for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER
20.12.2018

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1. The prayer in this writ petition is for a declaration that the acquisition proceedings in respect of land admeasuring 1 *bigha* of agricultural land in Khasra No.764/606 situated in village Maidan Garhi, New Delhi stand lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

2. The facts as stated by the Petitioner herself are that in respect of the land in question, a notification was issued on 25th November, 1980 under Section 4 of the Land Acquisition Act, 1894 (LAA), which was followed by declaration dated 18th June 1985 under Section 6 of the LAA. The land acquisition proceedings culminated in an Award No. 23/87-88.

3. According to the Petitioner, her predecessor had received the

compensation for the said land under “protest”. It is stated that after the judgment dated 15th May 1989 of the Division Bench (DB) of this Court in ***Balbir Singh v. Union of India 39 (1989) DLT 233***, the predecessor of the Petitioner returned the compensation amount along with 12 % p.a. interest. According to the Petitioner, both the requisites for seeking a declaration under Section 24 (2) of the 2013 Act stand satisfied in the present petition viz., (i) that since the compensation has not been paid and been returned, it should be held that no compensation has been received for the acquisition of the land in question and (ii) the fact that actual physical possession of the land has not been taken by the Respondents and continues to remain with the Petitioner.

4. It is averred in para 8.2 of the writ petition that the said land was purchased by the Petitioner from “(i) Shri Bhim Singh, s/o late Shri Lati Ram (owner of ½ share) and (ii) Shri Hukum Chand, (iii) Shri Man Singh and (iv) Shri Mehar Singh, all sons of late Shri Ramjee Lal (owner of 1/3rd share each)” through an Agreement to Sell, four separate Wills and Receipt all dated 9th November, 1995. The ownership is therefore traced to an unregistered ‘Agreement to Sell’ and Wills and not to any registered sale deed. The undisputed fact is that the Wills were not probated. Also, it is not disputed that the Petitioner never approached the Respondents mutation of the land in question in her name. In fact, till the filing of the present writ petition on 23rd March 2017, no attempt appears to have been made by the Petitioner to assert her ownership *qua* the land in question.

5. In reply to the petition, it is pointed out by the Land Acquisition Collector (LAC) that, the records revealed that the actual vacant physical possession

of the subject land was duly taken on the spot on 16th July 1987 and handed over to the DDA. Compensation was paid to the Bhim Singh by cheque No.81084 dated 10th September 1987 in the sum of Rs.4,55,225.07; Hukam Chand by cheque No.8851019 dated 31st August 1987 in the sum of Rs.1,51,741.68; Maan Singh by cheque No.81020 dated 31st August 1987 in the sum of Rs.1,51,741.68; and, Mehar Singh by cheque No.81029 dated 3rd August 1987 of the same amount as above. It is pointed out the Petitioner is not the recorded owner of the land being a subsequent purchaser having based her claim on an unregistered 'Agreement to Sell' dated 9th November 1995 without having sought a No Objection Certificate (NOC) from the Competent Authority. Further, such a transaction would be in contravention of the provisions of the Delhi Land (Restriction on Transfer) Act 1971 as well as the Transfer of Property Act, 1882. It is submitted that 'Agreement to Sell' cannot confer the title of the land on the Petitioner as her name was never mutated in the revenue records on the basis of inadmissible documents and that the petition is liable to be dismissed as the said document was executed by the abovenamed four owners of the land, to whom compensation was paid in 1987 itself. It is pointed out that the petition is also barred by laches.

6. On its part, the DDA has filed a reply more or less taking the same stand as the LAC. It is added that the physical vacant possession was taken over by DDA from the Land and Building Department on 16th July 1987. It is averred that physical possession of the said land was handed over to the DDA on 16th July 1987 for 'public purpose for planned Development of Delhi under the provisions of the Land Acquisition Act, 1894.'

7. In the course of his submission, learned counsel for the Petitioner referred to the decision in **Balbir Singh v. Union of India** (*supra*) where the DB of this Court recorded the stand of the DDA in that case that “no effort would be made to take possession of any land from anybody and the possession already taken of these lands will be restored back to the land owners on receipt of the refund of compensation if made with interest”. It is also submitted that the directions permitting the return of compensation was made applicable not only to the said Petitioner but “all other land owners as well”.

8. It is seen that the opening para of the judgment states that it disposes of certain writ petitions challenging the land acquisition proceedings in relation to the cluster of villages which includes the Revenue Estate of village Maidan Garhi, where the land in question is located. However, the admitted position is that the present Petitioner was not one of the Petitioners in the said batch of writ petitions. A careful reading of the said decision reveals that in para 2, the DB of this Court has stated “consequently, we direct that the possession of the Petitioners will not be disturbed except in cases where the compensation has been received by the land owners or alternate plots have been allotted until the compensation amount that the alternate plot surrendered.” It is, therefore, clear from the said portion of the judgment that those directions were intended to apply only to the Petitioners in the **Balbir Singh** case and not to those who were not before this Court in that batch.

9. It is another matter that the true purport of the judgment in **Balbir Singh**(*supra*) stood explained subsequently by the Supreme Court in **Delhi Administration v. Gurdeep Singh Uban** (2007) 7 SCC 296. In other words,

the directions were limited to the Petitioners in that case and were not intended to apply to all others who are not before the Court, for instance predecessor in interest of the present Petitioner.

10. Consequently, if the predecessor in interest of the Petitioner chose to return the compensation of his own then, relying on of the decision in **Balbir Singh** (*supra*) no benefit could have been derived therefrom by him. The decision in in **Balbir Singh** (*supra*) was not intended to benefit those who were not party to that decision.

11. Further at this distance in time with records not being available with the Respondents, it is not possible for them to confirm if, in fact, the compensation was returned as claimed by the Petitioner. However, it is revealing that from the stand point of the Petitioner herself, she has not proceeded on the basis that the earlier land acquisition proceedings stood quashed as a result of the decision in **Balbir Singh** (*supra*). If that were the case, then the Petitioner would have made some attempt on the basis of the Will in her favour to have the land mutated in her name or done something to assert her ownership of the land in question. She appears to have made no such effort whatsoever till the filing of the present petition, which is after the 2013 Act came into force. The very fact that the Petitioner is in this petition filed in 2015 seeking a declaration that the land acquisition proceedings must be deemed to have lapsed under Section 24 (2) of the 2013 Act is a clear admission that the said land acquisition proceedings have continued unchallenged by her predecessor in interest and later by her till the filing of the present petition.

12. That then brings up the question whether the Petitioner can be permitted

26 years after the so-called return of compensation and more than 27 years after the Award, to question the land acquisition proceedings.

13. This Court has passed several orders in the recent past following the decision of the Supreme Court in *Mahavir v. Union of India* (2018) 3 SCC 588, declining to accept the plea of the Petitioner that notwithstanding that many years have lapsed after the passing of the Award, the 2013 Act gives a fresh cause of action to a Petitioner to question the land acquisition proceedings. The following observations in *Mahavir v. Union of India* (*supra*) are relevant in this context:

“23. In the instant case, the claim has been made not only belatedly, but neither the petitioners nor their previous three generations had ever approached any of the authorities in writing for claiming compensation. No representation had ever been filed with any authority, none has been annexed and there is no averment made in the petition that any such representation had ever been filed. The claim appears not only stale and dead but extremely clouded. This we are mentioning as additional reasons, as such claims not only suffer from delay and laches but courts are not supposed to entertain such claims. Besides such claims become doubtful, cannot be received for consideration being barred due to delay and laches.

24. The High Court has rightly observed that such claims cannot be permitted to be raised in the court, and cannot be adjudicated as they are barred. The High Court has rightly observed that such claims cannot be a subject matter of inquiry after the lapse of a reasonable period of time and beneficial provisions of Section 24 of the 2013 Act are not available to such incumbents. In our opinion, Section 24 cannot revive those claims that are dead and stale.”

14. In the present case also the Court is satisfied that the Petitioner is seeking

to challenge the land acquisition proceedings long after they have attained finality. There is no valid explanation for the inordinate delay in approaching the Court. Consequently, the prayers made in this writ petition cannot be granted.

15. The petition is dismissed on the ground of laches. The interim orders stand vacated, the application is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 20, 2018