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

+ **W.P.(C) 6501/2015**

LATISH KUMAR AND ORS. Petitioners

Through: Mr. Ram Kumar, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Ashish Pradhan, Advocates for
Respondent Nos.1 & 2

Mr. Siddhartha Panda, Advocate for
Respondent/LAC/ L & B

Mr. Arun Birbal & Mr. Sanjay Singh, Advocates
for Respondent/DDA

Mr. Nikhil Goel & Mr. Gurpreet Hora, Advocates
for Respondent/SDMC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **11.12.2018**

1. Eight Petitioners have come to this Court seeking a direction that the acquisition proceedings in respect of Khasra Nos.154, 154/2 admeasuring 3 bighas and 12.5 biswas respectively in Revenue Estate of Village Begum Pur, District- South Delhi have lapsed in view of Section 24(2) of the 2013 Act.

2. In the list of dates and in the narration in the writ petition, it is stated that the Petitioners are the legal heirs of late Shri Prabhu who expired in 1970. It is stated that the notification under Section 4 of the Land Acquisition Act, 1894 ('LA Act') was issued way back on 13th November, 1959 followed by

a declaration dated 15th November, 1965 under Section 6 of the LA Act. The consequent Award No. 1972 was announced by the Land Acquisition Collector ('LAC') on 23rd June, 1967, which is nearly 50 years prior to the filing of the present writ petition.

3. In the counter affidavit filed by the LAC, it is pointed out that the land in Khasra No.154 was in fact acquired by an offer No.1000 under the Resettlement of Displaced Persons Land Acquisition Act, 1948 ('RDPLA Act'). It is pointed out therefore that this part of the acquisition is not covered under Section 24(2) of the 2013 Act. It is further pointed out in the affidavit filed by the South Delhi Municipal Corporation ('SDMC') that the property was allotted to the Rehabilitation Ministry Employees Co-operative Building Society Limited which had filed WP(C) No. 4440/2010 in this Court for directions to the Land and Development Office ('L&DO') to hand over the said property for construction of a Convenient Shopping Centre and Community Hall (Religious) as per the lay out plan. An order was passed in the said writ petition on 17th September, 2010 recording the submission made on behalf of the L&DO that the matter would be examined for utilisation of the common areas in accordance with law. It is further pointed out that an allotment letter was issued on 25th June, 2012 allotting two land pockets measuring 405 sq. metres and 1485 sq. metres for purposes of construction of a Community Hall (Religious) and a Convenient Shopping Centre respectively. For this purpose, the SDMC has in fact made a payment of Rs.2,92,67,453 to the L&DO on 31st March, 2015.

4. Another W.P. (C) No. 1757/2012 was filed by the abovementioned

Society for allotment of 485 sq. yards for the Community Centre so that it could be used for the members of the society. The Society was permitted to make a representation to the SDMC in that regard. Further orders have been made and further applications have been filed by the society for implementation of the previous orders. It is pointed out that from an order dated 17th September, 2010 passed by this Court in WP(C) No. 4440/2012 it could be noticed that a contention was raised by certain individuals that the land acquisition had in fact never taken place whereas in the present writ petition that the land acquisition proceedings are sought to be challenged.

5. In fact counsel for the Petitioner is unclear on this aspect. In one breath he states that he is entitled to the relief under Section 24 (2) of the 2013 Act while on the other hand he maintains that there were no land acquisition proceedings in respect of the land in question.

6. If indeed according to the Petitioners the land in question was never the subject matter of any acquisition proceedings under the LA Act, the question of granting any relief in terms of 24(2) of the 2013 Act does not arise. If however, the concerned land was the subject matter of the Award dated 23rd June, 1967, then clearly the Petitioners ought to have some reasonable explanation for the inordinate delay of nearly five decades in approaching this Court for relief.

7. On the latter aspect, the only submission of counsel for the Petitioner is that the Petitioners got a fresh cause of action because of the passage of 2013 Act. This Court has already negated a similar plea in a series of recent orders passed by it emphasizing that any Petitioner seeking relief of

lapsing of land acquisition proceedings must explain extra ordinary delay in approaching the Court for relief. There must be some explanation whether such Petitioners were diligent in pursuing the case against the acquisition proceedings of such lands which have taken place more than four decades earlier. There is no such explanation forthcoming in the present petition.

8. In any event a portion of the land is subject matter of the acquisition under the RDPLA Act. That also disentitles the Petitioner to the relief they are seeking under the 2013 Act.

9. For all of the aforementioned reasons, the Court declines to entertain the present writ petition. The writ petition is dismissed. The interim order stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 11, 2018

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