

\$~16

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

+ **W.P.(C) 10609/2015**

OM PRAKASH Petitioner
Through: Mr. Vishal Maan, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: Ms. Jyoti Jain for Mr. Yeeshu Jain,
Advocate for R-1/L&B/LAC.
Ms. Mrinalini Sen, St. Counsel with
Mr.Tanmay Yadav, Adv. for DDA.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% **18.12.2018**

1. The Petitioner has come to this Court seeking the relief of issuance of a declaration of lapse of land acquisition proceedings in respect of the land admeasuring 1 *bigha* 6 *biswa* in Khasra No. 843/1 (1-6) situated in Revenue Estate of Village Mahipalpur, New Delhi.

2. Admittedly, the notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd January 1965. This was followed by a declaration under Section 6 of the LAA dated 7th December 1966 followed by an award dated 19th September 1986. It is stated that due to a stay granted in W.P.(C) 1446/1983, possession could not be immediately taken and compensation was deposited in the Revenue Deposit and notices under

Section 12 (2) of the LA Act were also issued to the Petitioner on 16th April 1987.

3. Learned counsel for the Petitioner was asked to explain the inordinate delay in the Petitioner approaching this Court. His submission was that in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act 2013 ('2013 Act'), his right to seek the relief arose only after the 2013 Act came into force and therefore there was no occasion to come to the Court earlier.

4. This Court has rejected a similar contention in W.P.(C) 2734/2015 (*Devender Singh v. The Honorable Lt. Governor*). The Petitioner has also relied upon the decision of the Supreme Court in *Delhi Development Authority v. Sukhbir Singh (2016) 16 SCC 258*.

5. This Court, after referring to the said decision, observed in paras 7 to 12 as under:

“7. The delay in approaching the Court for relief was not an issue that was examined in *Sukhbir Singh* (supra) at all. It might be possible that in some cases, unlike the present one, the Petitioners may have a good explanation for the delay in approaching the Court for relief. They would have to make an effort, particularly if they are seeking to challenge the Award after more than three decades, to explain why they were prevented from coming to Court earlier. Bereft of any such explanation, it is not possible for the Court to entertain the petition only because the 2013 Act has become operational and the Petitioners are seeking to invoke it for relief.

8. While one of the conditions for invoking Section 24 (2) of the 2013 Act is definitely that the Award must have been more

than 5 years old, it does not excuse the Petitioners from explaining, even in respect of such Award, why they could not approach the Court earlier for relief.

9. There is a subsequent judgement of the Supreme Court in ***Mahavir v. Union of India (2018) 3 SCC 588*** wherein it was observed as under:

“19. The court is duty bound to prevent the abuse of the process of law in the cases which have been concluded several decades before, in our considered opinion, the provisions of Section 24(2) of the 2013 Act cannot be invoked in such cases of dead claims or stale claims. There are several numbers of cases coming to this court in which matters had been contested up to this court questioning the acquisition and the petitions have been dismissed by this court, and acquisition has attained finality, possession was taken, the award passed. Notice had been issued under Section 12(2) of the Act tendering the awarded amount but it has not been collected by the claimants/land owners deliberately or they had refused to collect it and are not ready and willing to accept it and, thereafter, it has been deposited in the name and account of the owners in the treasury which is also deposited as per the State Government’s instructions issued time to time relating to how Government money is to be dealt with. The act of failure to deposit money under section 31 after possession is taken only imposes liability to pay higher interest under section 34. The acquisition would not lapse under the Act.

22. In our opinion, the cases in which there is deliberate inaction of the owners for not collecting the compensation and they do not want to receive it, Section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by wilful act. The failure to deposit in court under Section 31(1) in

such cases would attract only interest as envisaged under Section 34 of the Act and the provisions of Section 24 cannot be so invoked in such cases”.

10. The decision in ***Sukhbir Singh*** (*supra*) was, therefore, sought to be distinguished.

11. Even earlier, in the context of challenge to land acquisition proceedings by invoking the jurisdiction of the High Court under Article 226 of the Constitution the Supreme Court in ***Tamil Nadu Housing Board, Chennai v. M. Meiyappan & Ors.*** (2010) 14 SCC 309 held:

“14. At the outset, we must state that on the facts of this case, the High Court was not justified in entertaining the writ petition. In our opinion, the writ petition must fail on the short ground that the writ petition had been filed 16 years after the award was announced by the Collector. It is trite law that delay and laches is one of the important factors which the High Court must bear in mind while exercising discretionary power under Article 226 of the Constitution. If there is such negligence or omission on the part of the petitioner to assert his right which, taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party, the High Court must refuse to invoke its extra-ordinary jurisdiction and grant relief to the writ petitioner.”

12. The Court in the present case is of the view that the Petitioners have failed to satisfactorily explain the delay of three decades in approaching the Court for relief and, therefore, would be disentitled to the discretionary remedy under Article 226 of the Constitution of India.”

6. In the present case as well, the Court has not been given any valid explanation for the delay on the part of the Petitioner in coming to the Court for relief between the date of the Award and the date of coming into force of the 2013 Act. No efforts could have been made to follow up on the issue of

grant of compensation despite knowing the passing of the Award.

7. For the aforementioned reasons, the petition is dismissed on the ground of laches.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 18, 2018
ak