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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4634/2016

SHRIMATI PRAKASH TYAGI & ORS.

..... Petitioners

Through: Mr.Ritish Kr. Sharma and Mr. Kailash
Chander, Advocates.

versus

THE LT. GOVERNOR, DELHI & ORS.

..... Respondents

Through: Mr. Abhinav Sharma for R1.
Mr. Dhanesh Relan, Standing Counsel
with Ms. Gauri Chaturvedi and Ms.
Mrinalini Sharma, Advocate for DDA.
Mr Yeeshu Jain and Ms JyotiTyagi,
Advocates for LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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17.01.2019

1. The prayers in the present petition read as under:

“a) Pass an appropriate writ, order or direction, declaring the acquisition proceeding initiated with respect to the land of the petitioners admeasuring approximately 56 bighas, bearing khasra numbers 11(3-0), 13(05-17), 14(4-7),19(07-10), 30(02-14), 33(01-01), 35(0-15), 40(02-05), 42(02-05), 73(04-16),85(02-08), 274/85(02-08), 109/3(05-06), 110(03-18),332/112/1(01-02), 117(02-05), 292/190(01-13), 229(0-04),230/2/2(0-16), 237/2/20 situated in the revenue estate/record of village Shakarpur Khas, District East Delhi, Delhi as deemed to have lapsed in view of the relevant provisions of The Right to Fair Compensation and Transparency in LandAcquisition, Rehabilitation and Resettlement Act, 2013.

b) pass an appropriate writ, order or direction, to the Respondents to release and grant the possession back to the petitioners with respect to the land of the petitioners admeasuring approximately 56 bighas, bearing khasra numbers 11(3-0), 13(05-17), 14(4-

7),19(07-10), 30(02-14),33(01-01), 35(0-15), 40(02-05), 42(02-05), 73(04-16), 85(02-08), 274/85(02-08), 109/3(05-06), 110(03-18), 332/112/1(01-02), 117(02-05), 292/190(01-13), 229(0-04), 230/2/2(0-16),237/2/20 situated in the revenue estate/record of village Shakarpur Khas, District East Delhi, Delhi, in view of the relevant provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

c) pass an appropriate writ, order or direction, to the Respondents in nature of mandamus/prohibition thereby directing/prohibiting the respondents, their agents, servants, employees etc from interfering in the peaceful possession and enjoyment of the aforesaid land;

d) Pass any order or other orders as in the interest of justice this Hon'ble Court may deem just and appropriate.”

2. According to the narration in the petition, notification under Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued on 13th November 1959 followed by declaration under Section 6 LAA on 18th March 1966. The impugned Award No.7/1969 was passed on 12th June 1969.

3. It is further stated that no compensation has been paid for the land in question; possession of the said land was not taken and it still continues to remain with the Petitioner. There is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for the reliefs in terms of Section 24 (3) of the 2013 Act.

4. In the counter affidavit filed on behalf of the LAC, it is stated that possession of the land was taken on 20th August 1970, 8th January 1975 and 25th December 1971 respectively, and handed over to the DDA on the spot for the purpose of planned development of Delhi. It is further stated that “majority of the awarded land has been taken as also the payment of majority of compensation to the recorded owners has been made.” Details of the recorded

owners recorded in the *Naksha Muntazamin*, the respective Khasra numbers with their areas, compensation assessed and possession have been laid out in a tabular format in para 5.

5. In the counter-affidavit filed by the DDA, it is stated that DDA has paid the entire amount of compensation through the Revolving Fund to the Commissioner (L&H) for payment to the LAC concerned at the time of the announcement of the Award for disbursement to the eligible persons. It is further stated that the land vests with the DDA free from all encumbrances by virtue of the notification under Section 4 and declaration under Section 6 of the 1894 Act and passing of Award No. 7/1969 dated 12th June 1969.

6. In the rejoinders filed by the Petitioner to the counter affidavits of both the LAC and DDA, he states that “it is submitted that neither the possession is taken over by the respondents nor the compensation has been paid by the respondent no.3 to the petitioners.” In any event, the assertion by the Petitioner that he continues to remain in possession of the land in question gives rise to a disputed question of fact.

7. The fact remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. On the aspect of laches, in *Mahavir v. Union of India (2018) 3 SCC 588* the Supreme Court has observed as under:

“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.”

9. The above observations have been followed by this Court in several orders including the order dated 10th December, 2018 in WP(C) No. 2734/2015 (*Devender Singh v. The Hon’ble Lt. Governor*) and similar petitions have been dismissed on the ground of laches.

10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 17, 2019
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