

\$~30

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

+ **W.P.(C) 43/2017**

PRATAP SINGH & ORS.

..... Petitioners

Through: Mr. Vishal Maan, Advocate with Mr.
Roshan Nandal and Mr. Aakash
Sehrawat, Advocate.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sumit Chander, Advocate with
Mr. Jatin Choudhary, Advocate for
Respondent Nos. 1 & 2.
Mr. Pawan Mathur, Standing Counsel
for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

08.01.2019

%

Dr. S. Muralidhar, J.:

1. The prayer in the present petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioners i.e. 7 bighas and 18 biswas out of land ad-measuring 9 Bighas and 17 Biswas comprised in khasra nos.649/346 (9-17), village Lado Sarai, New Delhi to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

ii. Pass any further order/s that this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. The narration in the petition is that a notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued on 23rd January 1965 followed by a declaration under Section 6 of LAA issued in 1966. The

Award was passed in 1984-85.

3. In the counter affidavit filed by the LAC, a preliminary objection is raised that the petition is barred by laches. It is further stated that land in question was acquired under Award No. 17/1984-85 and possession of Khasra No. 649/346 (9-17), Village Lado Sarai, New Delhi was taken on 21st July, 1984.

4. In para 11 of the counter affidavit of the LAC in a tabular column, the details of the payment of compensation as per Statement 'A' has been set out. A separate counter affidavit has been filed by the DDA enclosing the copy of the possession report thereby confirming that physical possession of the land was taken and handed over to it.

5. Mr. Vishal Mann, learned counsel for the Petitioners, however disputes that possession was taken from them and asserts that till date the Petitioners continue to remain in possession. He has also disputed that compensation was received by the predecessors-in-interest of the Petitioners or the Petitioners themselves. Mr. Mann referred to the judgment of the Supreme Court in *Mahavir v. Union of India* (2018) 3 SCC 588. According to him, the said judgment would apply only where there was an actual abuse of process of Court where despite receiving notices under Section 12 (2) of the LAA, the claimants did not come forward to collect the compensation or where the claims becomes stale. According to him, the earlier land acquisition proceedings did not come to an end till such time actual physical possession of the land was not taken in terms of Section 16 of the LAA. He submits that in the instant case, no such attempt was made and, therefore, there was no occasion for the Petitioners to approach the Court earlier for

relief.

6. The Court is unable to accept the above submissions. It is plain that in the present case, despite being aware of the Award which was passed more than three decades ago, no attempt was made by the Petitioners to challenge it in all these years. The decision in *Mahavir v. Union of India* (supra) is explicit that claims which are not only stale or dead but even barred on account of inaction by the party cannot be sought to be revived by resorting to Section 24 (2) of the 2013 Act.

7. Further, the question whether the Petitioners are in actual physical possession of the lands in question or whether compensation has been paid becomes a disputed question of fact in view of the pleadings in the present petition. In light of the details of the compensation paid set out in the affidavit of the LAC and the possession report enclosed with the affidavit of the DDA, a question arises whether the Petitioners or their predecessors-in-interest, at a subsequent point in time, re-entered the land in which case their occupation would be unauthorised. These disputed questions cannot be examined in the present proceedings under Article 226 of the Constitution.

8. In the circumstances, the Court sees no reason why it should entertain the present petition.

9. The petition is accordingly dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 08, 2019/ss