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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2647/2019

SURJEET KUMARI

..... Petitioner

Through: Ms Nidhi Mohan Parashar, Advocate
(DHCLSC) with Ms M.A. Arunehse
and Mr Parth Kochatta, Advocates.

versus

LAND ACQUISITION COLLECTOR & ORS.

..... Respondents

Through: Mr Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms Jyoti Tyagi,
Advocate.

Mr Pawan Mathur, Standing Counsel
for DDA.

Mr Ashish Uppal, Advocate for R-4.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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15.03.2019

CM 12272/2019 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 2647/2019 & CM 12271/2019 (directions)

2. The Petitioner has come to this Court seeking following reliefs:

a. Declare the demolition of the constructed house No. WZ-3432 on land measuring 66 sq. yards out of Mustatil No.28 Killa No. 18 situated at village Shakurpur, Delhi in 1984 as illegal and direct the Respondent No. 1 and Respondent No. 2 to compensate the Petitioner by allotment of an immovable property same or similar to the property of the. Petitioner taking into consideration the present market value of the said property;

b. Issue appropriate writ, order or direction to the Respondent No.1 and Respondent No. 2 to produce the Award No. 6/84-85 and set aside the same to the extent and if the same pertains to the constructed house No. WZ-3432 on land measuring 66 sq. yards out of Mustatil No.28 Killa No. 18 situated at village Shakurpur, Delhi;

c. In the alternative, issue a Writ of Mandamus under Article 226 of the Constitution of India or any other appropriate writ, order or direction declaring that the acquisition of the constructed house No. WZ-3432 on land measuring 66 sq. yards out of Mustatil No.28 Killa No. 18 situated at village Shakurpur, Delhi vide Award No. 6/84-85 has lapsed under section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

d. Issue appropriate writ, order or direction to the Respondent No.1 and Respondent No. 2 to produce the complete record pertaining to constructed house No. WZ-3432. on land measuring 66 sq. yards out of Mustatil No.28 Killa No.18 situated at village Shakurpur, Delhi and quash all Orders which deny compensation to the Petitioners including Order dated 10.05.1999 passed by the Vice Chairman, Respondent No. 2 and all further orders rejecting the plea of alternate plot of the Petitioner relying upon the Order dated 10.05.1999;

e. Pass any other or further order(s) that this Hon'ble Court may deem to be just, fair and equitable.”

3. The case of the Petitioner is that she purchased the subject property by way of a sale deed dated 29th June, 1971; that she and her family had constructed a house on the said property. She claimed that she has paid property tax and had an electricity connection. She has enclosed with the petition copies of the property tax bill as well as the electricity bill.

4. The Petitioner states that on 24th August, 1984, the above building in which she resided was demolished. She states that this happened at a time when she and her family were out of Delhi. Thereafter, she with her family shifted to a nearby village.

5. The Petitioner claims to have addressed communications to various authorities and has produced copies thereof. On 17th July, 1985, she is supposed to have written to the Special Secretary in the office of the Lieutenant Governor praying for compensation for demolition of the said property.

6. It must be noted at this stage that even according to the Petitioner, a land acquisition Award no. 6/84-85 was passed, which clearly included the Petitioner's property. She therefore appears to have been aware that the property in question was subject matter of the land acquisition proceedings. Yet, she does not appear to have approached the office of the Land Acquisition Collector ('LAC') or even the Land & Building Department ('L&B') immediately thereafter.

7. The narration of the petition shows as to how she kept writing to the Delhi Development Authority ('DDA') and others, but never went before the LAC. At one stage, on 21st September, 1998, a letter was issued by the Deputy Director (Land Management) of the DDA stating that "nothing can be done in this case at this stage since the demolition took place long back in 1985 and also no records are available on the matter under reference".

8. The DDA contemplated two courses of action – one is to give her an

alternative plot or the other that she should be asked to contact the L&B Department. The DDA directed her to latter alternative by a letter dated 7th May, 1999, enclosing therewith the above noting. The notings in this behalf were provided to the Petitioner on 16th August, 2011 when she filed an application under the Right to Information Act, 2005 ('RTI Act'). The petition sets out the various correspondences entered into by the Petitioner with the authorities. However, she never appears to have approached either the LAC or this Court for relief.

9. The difficulty in the Petitioner not taking the step of approaching the Court in time, is that there is no basis on which the relief can be granted if the records are not available with the authorities. That is what appears to have happened in the present case. From the letter dated 21st September, 1998 itself, it is clear that at the end of the DDA, no records were available. Even from the office of the LAC, in a letter addressed on 26th October, 2017 to the L&B Department with reference to the Petitioner's claim, it has been said "as regards the release of awarded compensation is concerned, it is submitted that the same cannot be informed since the Statement-A in the RD Register is not available on the record".

10. Learned counsel for the Petitioner insisted that notice should be issued in the present petition to enable the Respondents to file their respective replies.

11. The Court is not inclined to do so for the simple reason that in response to the advance copies served upon them, learned counsel for the Respondents have already appeared. Moreover, through the application under the RTI Act, the Petitioner herself obtained replies from the

Respondents in which their respective stands are explicit. Both the DDA and the LAC have clearly stated in writing that the concerned records are not available with them for the Petitioner's claim to be validated.

12. With the Petitioner not having approached the Court within a reasonable time, in respect of events that occurred more than three decades ago, it is also not going to be possible for the Court to grant relief, particularly when the records on the basis of which such reliefs could be granted are no longer available.

13. For all of the the aforementioned reasons, this Court declines to entertain the present petition. It is accordingly dismissed. The application is disposed of.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 15, 2019

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