

\$~30.

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

+ W.P.(C) 1945/2017

MOHD MUSLIM AND ORS

..... Petitioners

Through: None.

versus

D D A AND ORS

..... Respondents

Through: Mr. Arun Birbal, Advocate for
respondent/ DDA.

Mr. Yeeshu Jain & Ms. Jyoti Tyagi,
Advocates for respondents/ LAC/
L&B.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.10.2019

%

None appears for the petitioners when the matter is called out even after a pass-over. On the last date as well, there was no appearance on behalf of the petitioners. The petition is liable to be dismissed for non-appearance.

We also find that, even otherwise, the petition is grossly barred by delay and laches. The petitioners have preferred the present petition to seek the following reliefs:

“(a) Quash the proceedings allegedly resulted into Award No. 95/1983-84 in respect of their properties/plot measuring 300 square yards bearing No. N-285A, measuring 200 square yards bearing No. N-254, measuring 300 square yards bearing No. N-286 and measuring 200 square yards bearing No. N-285 fallen in Khasra No. 302, Village: Okhla, New Delhi;

(b) Pass such other, further order (s) in the facts and circumstances of the case as this Hon'ble Court may deem fit, just and proper in favour of the Petitioners.”

The acquisition in the present case was initiated by issuance of notification under Section 4 of the Land Acquisition Act on 04.04.1964; the notification under Section 6 of the said Act was issued on 07.12.1966; and the award was made in the year 1984. The present petition has been preferred only in February 2017. The respondents have stated in their counter-affidavit as follows:

“4. That the present writ petition is liable to be dismissed as the petitioners are not the recorded owners of subject land and are claiming the relief of different size of plots on basis of GPA/Agreement to Sell executed in the year 2012 by one Mukhtiyar S/o Mohd. Yusuf. Page 101 of writ petition revealed that said Mukhtiyar S/o Mohd. Yusuf got the alleged powers from Abdul Qadir by GPA of 1995 to execute GPA/Agreement to Sell in the names of respective petitioners but Abdul Qadir also is not the recorded owner of the subject land and was authorized to execute any GPA in the name of Mukhtiyar S/o Mohd. Yusuf. The present writ petition is also barred by delay and laches as the possession of the same was taken in the year 1984 but the recorded owners did not challenge the acquisition proceedings including the possession proceeding and accepted the same, hence with taking of possession, the said land vests absolutely with the Government u/s 16 of the Act, 1894.

5. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra number 302 (9-11) was taken on 14.3.1984 on the spot and handed over to the requisition agency on the spot by preparing possession proceeding. The recorded owners as per Naksha Muntazamin are Nooru S/o Ranjeet 1/2 share, Mallo W/o Chanda 1/4th share, Daroga S/o Harkesh 1/8th share and Dayanand S/o Daroga 1/8th share. The compensation in respect

of Mallo W/o Chanda was sent to Reference Court u/s 30-31 of Act, 1894.

6. That it is submitted that the lands of village Okhla were notified vide Notification under section 4 of the Land Acquisition Act 1894 dated 4.4.1964 which was followed by Notification under section 6 of the said Act vide Notification dated 7.12.1966. That it is submitted that the Land Acquisition Collector also passed an Award No. 95/83-84. The allegations of the petitioners that they were not served with any notice is false as petitioners are not the recorded owners and are claiming on the basis of GPA/Agreement to Sell allegedly executed in the year 2012 only whereas the Award was passed in the year 1983-84 and possession of the subject land was also taken long back on 14.3.1984. The alleged documents on basis of which the petitioners have been claiming relief of section 24(2) of Act, 2013 in the present writ petition did not complete the title chain nor it contained any averment that the respective petitioners were conferred any right over the compensation which the petitioners have been alleging as unpaid. The petitioners also have not disclosed as to whether they furnished their respective bank account details with the answering respondent to enable it to tender the compensation, if petitioners were entitled to the same. The petitioners have failed to show any effort on the part of the recorded owners to show that having taken the possession of the subject land, what action was taken by them to claim the compensation.”

In the light of the aforesaid, we do not find any merit in the present petition and dismiss the same.

VIPIN SANGHI, J

SANJEEV NARULA, J

OCTOBER 09, 2019

B.S.Rohella