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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2776/2016

DAYANAND & ORS.

..... Petitioners

Through: Mr Rajesh Gupta, Mr Bhagwat
Pershad and Mr Priyanshu
Aggarwal Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti
Tyagi, Advocates for LAC/L&B.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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11.03.2019

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

“a) issue a writ of mandamus directing the respondent to pay to the petitioners the amount of compensation including all statutory benefits in respect of their acquired land pertaining to land bearing Khasra Nos.583 (7-8), 594 (9-6), 909 min (0-8), 910 min (0-11), 912 min (1-5), 913 (2-18), 914 (3-2), 920 min (1-18), 924 (3-13), 961 (2-12), 1051 min (9-3), 1055 min (6-8), 912 min (2-15), 919 (1-17), 920 min (1-18), 923 min (1-17), 940 (1-9), 949 (1-15), 1054 min (7-4), 1055 min (5-2), 656 min (3-8), 656 min (3-7) and 860 min (5-10) situated within the revenue estate of Kilokari, New Delhi, acquired vide Award No.14/1992-93;

b) also issue a writ of mandamus directing the respondent to forward the reference petition titled as ‘*Surjan & Ors. Vs UOI*’ filed by the petitioners in respect of their acquired land under Section 18 of the Land Acquisition Act, duly received in the office of the respondent vide Diary No.222 on 30.07.1992 to the District Judge for adjudication the fair and proper market value of their acquired land;

c) pass such other or further order/direction, which this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case in favour of the petitioners and against the respondent, in the interest of justice.”

2. It is stated in the petition that subsequent to the notification and declaration issued under Section 4 and Section 6 of the Land Acquisition Act, 1894 (LAA), the lands of the Petitioners were acquired under the impugned Award No.14/1992-93.

3. According to the Petitioners, no notice was given of the pronouncement of the Award, neither was there any notice issued under Section 12 (2) LAA. It is contended that the predecessors-in-interest of the Petitioners were not paid compensation in respect of the acquired land. It is further stated that the predecessors-in-interest, not being satisfied with the assessment of the market value of the land at the time, had immediately sought a reference in 1992 under Section 18 LAA, a copy of which has been annexed along with the petition. It is further stated that although for the land in some of the Khasra numbers in question, compensation was paid, for the remaining land compensation has still not been paid and neither has the reference been forwarded to the concerned Court.

4. In the counter-affidavit filed on behalf of the LAC, it is it is stated that subsequent to the notification under Section 4 LAA on 23rd June 1989 followed by declaration under Section 6 LAA on 22nd June 1990, the impugned Award was passed on 19th June 1992. It is submitted that since it is the Petitioners' own case that the land was acquired around 1990, the petition is barred by delay and laches. It is stated that the copy of the

application seeking reference, as enclosed by the Petitioners, and stated to be pending for over 25 years, is only a photocopy. It bears no date or signature and therefore its authenticity cannot be verified.

5. Para 7 of the LAC's counter affidavit sets out the details of the Khasra Nos., status as to possession and the compensation paid as per the Naksha Mutzamin/Statement 'A'. It is stated that it is the admitted case of the Petitioners is that in another reference petition initiated by the Petitioners, compensation has been recorded as paid and for the remaining Khasra numbers, there is no entry to the effect that compensation has been paid. It is pointed out, "however the conduct of the petitioners may be taken into consideration to arrive at a conclusion that the compensation for the subject land would have been duly paid to them in accordance with law."

6. The Petitioners have filed a rejoinder to the counter-affidavit of the LAC, wherein the averments in the petition have been reiterated. The contents of the table as provided by the LAC have been disputed. It is reiterated that despite a delay of 20 years, the LAC has not forwarded the reference application of the Petitioners to the concerned ADJ. It is contended that despite the application for payment of compensation having been received in the office of the LAC on 28th September 2015, it has not been dealt with by the Respondents.

7. Learned counsel for the Petitioner had no answer to the averment of the LAC in the counter affidavit that the copy of the application allegedly made to the LAC by the Petitioners seeking reference of the claim of enhanced compensation to the reference Court was not a genuine document. The rejoinder is silent on this aspect. Learned counsel for the

Petitioner submitted that he had with him the records of the LAC which would show that such an application was indeed made. However, there is no such averment in the rejoinder affidavit. Also, no such copy of the application bearing the acknowledgment or seal of the office of the LAC has been enclosed with the rejoinder.

8. In any event, the Petitioners claim to have submitted such application to the LAC in 1992, i.e. 24 years prior to the filing of the present petition. When asked what the Petitioners were doing in the interregnum, learned counsel submitted that they had been following up with the LAC. However, there is not even an averment to this effect in the petition or the rejoinder. The earliest representation is dated December 2013 i.e. over two decades after the application seeking reference was purportedly made to the LAC. The failure on the part of the Petitioners to follow up the issue regarding payment of compensation for over two decades is writ large. Further, the Petitioners have no convincing explanation for the inordinate delay in approaching the Court for the relief.

9. In ***Tamil Nadu Housing Board, Chennai v. M. Meiyappan (2010) 14 SCC 309***, the Supreme Court held:

“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.”

10. 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.”

11. The above decision has been re-affirmed by the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412.

12. In any event the averments in the petition and the counter affidavit reveal that the question whether the Petitioners are at all entitled to compensation is a disputed question of fact which cannot be examined in these proceedings.

13. 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.

I.S. MEHTA, J.

MARCH 11, 2019/mw