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

+ **W.P.(C) 1991/2015**

TARA CHAND & ANR

..... Petitioners

Through: Ms.Ira Gupta, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Naushad Ahmad Khan, ASC with
Md.Tauheed Arshi, Advocate for
GNCTD.
Ms.Mrinalini Sen, Standing Counsel
with Mr.Tanmay Yadav, Advocate
for DDA.
Mr.Siddharth Panda, Advocate for
LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

11.01.2019

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

“In view of aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may kindly and graciously be pleased to:

A- Issue a writ, order or direction declaring that Petitioners and respondent No. 6 are the lawful and exclusive owners/bhumidhars and have 1/3rd share each, in land in khasra Nos. 812/2(1-8), 817(4-16), 825(4-16) and 826/2(1-5) in the revenue estate of village Mahipal Pur, New Delhi; AND to the extent of 1/4th share in land in khasra Nos. 824/1, 787/2, 818,

820, 782/2 & 798/2 in the revenue estate of village Mahipal Pur, New Delhi;

B. Direct Respondents Nos. 1 to 4, by issuing a writ of Mandamus not to proceed further in respect of Award No. 30/86-87 of Village Mahipal Pur, approved by Secretary Revenue on 12/9/86 passed by the Land Acquisition Collector under Land Acquisition Act, 1894 in respect of land in question belonging to Petitioners and respondent No. 6;

C. Direct Respondents Nos. 1-4, by issuing a writ of Mandamus not to interfere in peaceful possession of Petitioners and respondent No. 6 in respect of aforesaid land in question holding that the acquisition proceeding initiated under Land Acquisition Act, 1894 have been lapsed on the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and;

Any other relief which this Hon'ble Court deems fit and proper under circumstances of the case may kindly be also granted in favor of petitioners and against respondents, in the interest of justice.”

2. From the narration of the petition it is seen that it is claimed that the lands in question were subject matter of notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 ('LAA') dated 23rd January 1965 and 26th December 1968 respectively. Award No.30/72-73 was passed for an area of 634 bighas and 18 biswas which included the land in question in the Revenue Estate of village Mahipalpur. Another Award No.30/86-87 was passed in respect of land measuring 114 bighas 17 biswas including the land of the Petitioners.

3. According to the Petitioners only symbolic paper possession was taken on 23rd September 1986 whereas the actual possession still remains with them.

It is stated that a colony known as Mahipalpur Extension K2 Block exists on the land in question. After the above narration, the writ petition straight away refers to the 2013 Act and prayers for the relief of lapsing of the land acquisition proceedings. No attempt is made in the entire petition to explain the inordinate delay in approaching the Court for relief.

4. A counter-affidavit has been filed by the Delhi Development Authority dated 29th September 2015 *inter alia* objecting to the Petition being maintained and urging that it should be dismissed on the ground of laches. It is further pointed out that actual physical possession of the land in question has been handed over to the DDA except certain Khasra Nos.812/2 (1-12), 817(4-16), 818(4-16), 824(2-08) and 825(4-16). The compensation amount in respect of the Award No.30/86-87 was sent by the DDA to the Govt. of NCT of Delhi way back on 27th January 1986. The possession proceedings dated 23rd September 1986 have been enclosed with the affidavit.

5. A separate counter-affidavit has been filed by the LAC on 2nd April 2018 where *inter alia* in paras 6 and 7 it is stated as under:

“6. That as per the records, the land in question i.e., Khasra No.787/2 (1-08), 826/2 (1-05), 812/2 (1-12), 817 (4-16), 818 (4-16), 824/1 (2-08), 825 (4-16) 820, 782/2, 798/2 situated at the revenue estate of village Mahipalpur, New Delhi was notified under section 4 of Land Acquisition Act on 23.01.1965 followed by declaration under section 6 of Land Acquisition Act on 26.12.1968 for "Planned Development of Delhi". In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims

were also filed by the interested persons. The then Land Acquisition Collector passed Award No. 30/86-87 dated 19.09.1986 after considering the claims of the claimants. However it is pertinent to mention that khasra Nos. 820, 782/2 and 798/2 were not included in the said Award dt 19.09.86.

7. That as per the available records, the possession of khasra no. 787/2 (1-08) and 826/2 (1-05) was taken over and handed over to the beneficiary department on 23.09.1986. However, possession of remaining lands was not taken over on that day due to stay granted by this Hon'ble Court in WPC No. 1565/1983 titled as *Ajit Singh & Ors. Versus Lt. Governor & Ors.* Further, as per the records, notice under section 12(2) of the Land Acquisition Act, 1894 was issued to the recorded owner on 12.11.1986 and the compensation with respect to the land in question were sent to RD on 23.12.1986. Thus claim made by petitioners at para 06 of the W.P at page 07 is totally false that claim was not offered to the petitioner. The notice of 12(2) was received by the wife of recorded owner on 20.11.86."

6. No rejoinder affidavit has been filed to either of the affidavits of DDA or the LAC by the Petitioners. It is plain therefore that the assertions by the Petitioners that no compensation has been made and that they are still in possession of the lands in question give rise to disputed question of facts which cannot be examined in the present petition.

7. In any event, the Petition appears to be hopelessly barred by laches with no attempt made by the Petitioners to explain the inordinate delay in approaching the Court for relief. The passing of the 2013 Act cannot by itself constitute a cause of action where the Petitioners have taken no step to pursue a challenge to the land acquisition proceedings in the meanwhile.

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. Following the above judgment, this Court has in W.P.(C) No.2734/2015 (*Devender Singh v The Hon’ble Lt. Governor*), dated 10th December, 2018, W.P.(C) No.1380/2016 (*Bhule Ram v Union of India*), dated 17th December, 2018; W.P.(C) No.5647/2016 (*Ram Devi v NCT of Delhi*), dated 21st December, 2018 and in W.P.(C) No.6287/2014 (*Kartar Singh v Union of India*), decided on 19th December, 2018, rejected petitions seeking similar reliefs on the ground of laches.

10. Consequently the petition is dismissed both on the ground of laches as

well as on merits. The interim stay confirmed by the order dated 12th February 2018 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 11, 2019
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