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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3600/2016**

SATISH & ORS

..... Petitioners

Through: Mr. N.Prabhakar, Advocate
versus

THE HONBLE LIEUTENANT GOVERNOR & ORS.... Respondents

Through: Mr.Yeeshu Jain & Ms. Jyoti Tyagi,
Advocates for Respondent/LAC/L & B
Mr.Nikhil Goel & Mr. Aniruddha Deshmukh,
Advocates for Respondent/DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **09.01.2019**

1. The prayers in this petition read as under:-

“a. Issue a writ in the nature of certiorari/ declaration that the acquisition proceedings with respect to the land in khasra no. 308 (1 Bigha) and khasra number 309 (5 Bighas) in the village Masoodpur, Tehsil Mehrauli have lapsed in terms of the section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013;

b. direct the respondents to record the names of the petitioners as the owners of the subject land in question;

c. pass any other order/suitable directions as this Honourable court deems just and appropriate in the facts and circumstances of the case.”

2. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 24th October, 1961 following by declaration under Section 6 of the LAA on 6th August,

1966. The Award No. 2040 was passed on 2nd December, 1967. In the award itself, the predecessor in interest of the Petitioners was shown at Sl.No. 37. His claim for compensation was at the rate of Rs.30 per sq. yd.

3. It is asserted that possession of the land in question continues with the Petitioners. Reference is also made to a suit filed by the Gaon Sabha of Village Masoodpur against the predecessor-in-interest of the Petitioners before the Court of the Revenue Assistant in 1970 under the Delhi Land Reforms Act claiming that the predecessor in interest of the Petitioners was in unauthorised occupation of the land which actually belonged to the Gaon Sabha. It is stated that in the said suit the predecessor-in-interest had filed an application for correction of the entry in the record and that this was allowed by an order dated 28th April, 1970 of the Revenue Assistant. It is stated that when the Gaon Sabha subsequently sought to dispossess the sons of the predecessor in interest, they went to the Revenue Assistant again who directed the maintenance of the status quo by an order dated 24th May, 1988. Another order was passed on 26th August, 1991 by the Revenue Assistant restraining the Gaon Sabha from interfering with the possession of the land.

4. In reply to the petition, it is pointed out by the LAC that actual vacant physical possession of the land was taken on the spot on 8th January, 1968 itself and the land therefore vested absolutely without any encumbrances with the State under Section 16 of the LAA. It is further pointed out that the Petitioners are in fact not the recorded owners of the land in Khasra No. 308 (1-00) and 309 (5-00) as the said Khasra numbers are shown to be owned by the Gaon Sabha. No rejoinder affidavit has been filed by the Petitioners to

counter the above assertions.

5. A separate counter affidavit has been filed with the DDA which confirms that the physical possession of the land in question was taken over and the land vested with the Government free from any encumbrance. It is also pointed out that on 6th August, 1982 the land in question was transferred to the housing scheme.

6. Again no rejoinder affidavit has been filed to contradict the above assertions. Consequently the question whether the Petitioners are validly in possession of the land in question is a disputed question of fact which cannot possibly be examined in the present proceedings.

7. Apart from the fact that on merits, the Petitioners have not been able to make out a prima facie case, the petition is also barred by laches since there is no explanation whatsoever in the petition for the inordinate delay in approaching the Court for relief.

8. In this context the following observations of the Supreme Court in ***Mahavir v. Union of India (2018) 3 SCC 588*** are relevant:

“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. In similar circumstances, this Court has, following the decision in *Mahavir v. Union of India* (*supra*) rejected the pleas of the Petitioners in WP (C) No.2734/2015 (*Devender Singh v. Hon’ble Lt. Governor*) and WP(C) No. 1380/2016 (*Bhule Ram v. Union of India*) by its orders dated 10th and 17th December, 2018 respectively.”

10. Consequently, the petition is dismissed both on the ground of laches and on merits.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019

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