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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4090/2016

M/S VEE PEE ENTERPRISES

..... Petitioner

Through: Mr Abhishek Sharma, Advocates.

versus

LAND ACQUISITION COLLECTOR & ANR

..... Respondents

Through: Mr Nikhil Rohtagi, Mr Shashank
Khurana and Mr Anuj Agarwala,
Advocates for DDA.
Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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28.01.2019

1. The prayer in the present petition reads as under:

“In view of above facts & circumstances, this Hon'ble Court may graciously be pleased to issue a writ of mandamus or any other appropriate writ / order declaring the proceedings vide Award no. 8/1991-92 dated 06.02.1992 under Land Acquisition Act 1894 for acquisition of land under Khasra No. 715 (1-02) situated in Viilage Siraspur, Delhi, as "deemed to be have lapsed" in terms of Sec 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.”

2. In paragraph (1) of the petition it is stated that the Petitioner on 13th March, 1986 had purchased land measuring 1 bigha and 10 biswas

equivalent to 1500 sq yd in Khasra No. 715, situated in the revenue estate of Village Siraspur, Delhi by way of a sale deed. This was, admittedly, after 1985. It is further stated that it was also mutated in favour of the Petitioner on 8th July, 1986.

3. In paragraph (3), it is stated that “the Revenue Assistant concerned under section 81 of DLR (Delhi Land Reforms) Act vested a portion measuring 8 Biswas in Gaon Sabha in case no.896/R/87 but the possession of the land remained with the petitioner.”

4. It is further stated in the petition that the notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued way back on 9th February, 1989 followed by a declaration under Section 6 of LAA on 7th February, 1990 and the Award was passed by the Land Acquisition Collector (LAC) on 6th February, 1992. It appears that a corrigendum award was also passed on 12th February, 1992.

5. In paragraph (6), it is stated that on 8th September, 2004, the Respondent No.1 i.e. the LAC took possession of land by carrying out demolition of the boundary walls and handed over possession to the DDA (Respondent No. 2). The Petitioner enclosed the possession report dated 18th September, 2004.

6. According to the Petitioner, he did not file any application for payment of compensation and on 18th June, 2009, preferred an application before the Respondent No.1 for release of payment, but has not received payment. Thereafter, the petition jumps to 19th August, 2014 when a notice was sent by the Petitioner to the Respondent No.1 for de-notification of the land

contending that the conditions under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 stand fulfilled, and the Petitioner seeks a declaration of deemed lapsing of the land acquisition proceedings.

7. An affidavit has been filed by the Respondent No.2 DDA, pointing out that the physical possession of the land had been handed over to the DDA on 19th September, 2004 itself and that the compensation in the sum of Rs.45,662/- had been withdrawn by the Petitioner in respect of 1 bighas and 2 biswas of land by a cheque dated 15th December, 2009.

8. In the counter affidavit by the LAC, it is reiterated that the vacant physical possession of the land was taken on 18th September, 2004 and handed over to the DDA. The compensation also stated to have been paid to the recorded owner by cheque dated 15th December, 2009 in the sum of Rs.45,622/-.

9. A rejoinder has been filed by the Petitioner to the counter affidavit of the DDA denying that the petition is barred by the laches. It is contended that only symbolic possession has been taken. In response to the averments concerning compensation, it is stated in the rejoinder that “the Petitioner applied for the amount of compensation 18th June, 2009 under protest and subject to filing of a reference petition under Section 18 of the LAA”. It is stated that thereafter the Petitioner did not collect the amount “to avail alternate remedies”. In other words, it is not denied that the Petitioner was offered the compensation.

10. Interestingly, there is no rejoinder to the counter affidavit filed by the LAC.

11. From the above narration, it is seen that as far as delay and laches is concerned, the Petitioner does not have any convincing explanation for the delay in approaching the Court. Even on merits, it is seen that the Petitioner does not dispute that the compensation was offered, but only that the Petitioner chose not to accept it. As regards possession, the pleadings give rise to a disputed question of fact. It is not possible to state categorically that after physical possession was taken over by the LAC and handed over to the DDA, the Petitioner did not re-enter the land and again take possession.

12. In that view of the matter, the petition is dismissed both on the ground of laches as well as on merits.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 28, 2019

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