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

+ W.P.(C) 5890/2016

SANT NIRANKARI MANDAL (REGD) Petitioner

Through: Mr.Devender Verma and Mr.Joginder
Sukhija, Advocates

versus

GOVERNMENT OF NCT OF DELHI AND ANR Respondents

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

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **10.12.2019**

1. The petitioner has preferred the present writ petition to seek a declaration that acquisition in respect of land admeasuring 30 Bighas 18 Biswas comprised in Khasra No.392/3/4, Village Dhirpur, Delhi concluded vide Award No.32/83-84 dated 10.08.1983, has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently the same be set aside.

2. The land in question was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') vide notification dated 4th September, 1967. The same was followed by a notification under Section 6 of the said Act on 6th February, 1968. Eventually, award no. 32/83-84 was passed by the LAC on 10th August, 1983. According to the respondents, actual physical vacant possession of the land falling in Khasra No.392/3/4, admeasuring 20 bighas 18 biswas was taken on the spot on 30th August,

1983, whereas possession of the portion admeasuring 10 bighas could not be taken. The land whereof possession was taken, was handed over to the requisitioning agency on the spot by preparing the possession proceedings and compensation of Rs. 33,649/- was sent under Section 30-31 before the Reference Court on 10th February, 1987.

3. The present petition has been preferred by the petitioner only in the year 2016. Evidently, the same is highly belated and clearly barred by laches. On this short ground, this petition is liable to be dismissed.

4. Learned counsel for the petitioner has argued that the present petition is not barred by delay and laches, since the Reference Court, namely, ADJ-1 District North, Rohini Courts, Delhi, while dealing with LAC No. 86B/2015/87 under Section 30-31 of the Act, held that the possession proceedings were fake. In this regard, he has placed reliance on the order passed by the ADJ-1 District North, Rohini Courts, Delhi in the said proceedings on 6th April, 2016.

5. On the other hand, learned counsel for the respondent points out that the reference under Section 30-31 of the Act was made to the ADJ due to the reason that in the revenue records, the name of the petitioner was not recorded as an owner. The names of the Gaon Sabha Dheerpur, Tilak Raj, Ram Prakash, Om Prakash and Avtar Singh had been shown with different shares as recorded owners. She further submits that the scope of the proceedings under Section 30-31 of the Act did not envisage the ADJ returning a finding with regard to the possession report being genuine or fake, particularly, in the absence of the concerned authorities in the said

reference proceedings. She therefore submits that the said findings returned by the learned ADJ in proceedings under Section 30-31 of the Act are without jurisdiction and of no avail to the petitioner. In any event, the said order of the ADJ does not explain the inordinate delay and laches in preferring this petition.

6. Having heard learned counsels, we are of the view that the petitioner has not been able to satisfactorily explain the immense delay and laches in preferring the present writ petition. As noticed hereinabove, the notification under Section 4 of the Act was issued on 4th September, 1967. Subsequently, the notification under Section 6 of the Act was issued on 6th August, 1968, and; the award passed on 10th August, 1983 vide award No.32/83-84. Pertinently, the petitioner did not assail the acquisition proceedings at any stage. The petitioner was not even recorded as the recorded owner. However, since the petitioner raised the claim, the same was referred to the Reference Court under Section 30-31 of the Act. The issue that arose in the said proceedings did not concern either the validity of the acquisition or the aspect of delivery/taking over of the possession. Section 30 of the Land Acquisition Act, 1894 read as follows:

“30. Dispute as to apportionment. - When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

7. Thus, the mandate of the ADJ dealing with a reference under Section 30-31 of the Act is very limited. He has to only deal with the disputes with regard to the apportionment of the compensations settled under Section 11

or any part thereof, or as to the persons to whom same, or any part thereof, be paid. It did not fall for the ADJ while dealing with the proceedings under Section 30-31 of the Act, to go into the correctness, or otherwise, of the possession proceedings. The possession proceedings have been placed on record. They were drawn in hand by the Naib Tehsildar (L.A.) on 30th August, 1983 and also bear the signature of the Kanoongo LA apart from one Ram Bhaj.

8. A perusal of the order under Section 30-31 of the Act passed by the ADJ shows that he has proceeded to hold that the possession report is fake on the basis of the letter dated 24th September, 1983, written by the LAC (N) to the effect that the Tehsildar (L&D) has also shown his inability to take over the possession from this office, until and unless the Naib Tehsildar of the DDA is simultaneously willing to take over the same. It is evident to us that without impleading all the concerned authorities as parties, it was not for the court, much less for the Reference Court under Section 30-31 of the Act, to return any such finding. It is well settled that even paper possession is sufficient, and merely because it was not possible to take actual possession due to resistance, or otherwise, it could not be said that the possession has not been taken. We may refer to the decision in ***Rajbir Solanki vs. Union Of India 2008 SCC OnLine Del 178***, which has held that if symbolic possession has been taken, then the petitioner is enjoying the possession only as a trustee on behalf of the public at large and the same cannot be considered to be a ground to contend that possession has not been taken.

9. Thus, reliance placed by learned counsel for the petitioner on the order of 6th April, 2016 passed by the learned ADJ in LAC 86/2015-87, to explain

the delay, is completely misplaced. The same, in any event, does not explain as to what prevented the petitioner from challenging the acquisition proceedings earlier, which were complete with making of the award. On account of the immense delay and laches in the filing of this petition, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of the India.

9. Accordingly, the petition is dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

DECEMBER 10, 2019

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