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

+ **W.P.(C) 12063/2016**

JAI KISHAN & ORS.

..... Petitioner

Through: Mr. Prasoon Kumar and Ms
Anamika, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Reshesh Mani Tripathi,
Advocate for Respondent/IOI
Mr. Arjun Pant, Advocate for
DDA
Mr. Sidharth Panda, Advocate
for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

14.05.2019

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

“Issue a Writ of Certiorari and/or any other Writ, order or direction of the similar nature declaring the entire acquisition with respect to the said land of the petitioners having lapsed and further quashing the impugned notification F 11(19)/200/L & B/LA/20112 dated 21/3/2003 and award no 13/2005-06/DC(n-W) with respect to land of the petitioners comprised in Khasra No 23/21/2 measuring 2 Bigha 8 Biswas and in Khasra No 24/1/1 measuring 2 Bigha 8 Biswas situated in the revenue estate of Begampur, Delhi.”

2. The narration in the petition reveals that the late father of the Petitioners, one Shri Hoshiyar Singh, was the recorded Bhoomidar/owner of the land measuring 2 Bigha 8 Biswas in Khasra No 23/21/2 and 2 Bighas 8 Biswas in Khasra No 24/1/1 in village Begampur, Delhi. A copy of the Khasra Girdawari is annexed along with the petition. Para 5 of the petition lays down the various Khasra numbers that were notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 21st March 2003, and further states that the remaining Khasra numbers were "acquired vide award no 13/2005-06/DC(N-W) by Land Acquisition Collector Department of Rohini Residential Scheme." It is stated that no possession of any of the lands that were notified above was taken by either the DDA or any other Government authority. It is further mentioned that the colony 'Begumpur Extension' was established around 32 years back, the said colony in question is totally built up and that the civic authorities are providing essential amenities to the said colony.

3. Para 6 of the petition states that the late father of the Petitioners transferred his right in the property situated in Khasra no 23/21/2 to the Petitioners by executing a registered General Power of Attorney (GPA), 'Deed of Will', affidavit and agreement to sell, all dated 3rd November 2003, which have been annexed along with the petition. However, it is seen that they have been executed after the notification under Section 4 LAA was issued on 21st March 2003, and since they are in the teeth of the Delhi Lands (Restriction on Transfer) Act, 1972 and cannot confer any valid legal title, right or interest for the lands in question, they have no legal sanctity.

4. In the counter affidavit filed on behalf of the LAC, it is stated that the Petitioners are not the recorded owners of the land but instead claim to be the GPA holders and hence the petition is not maintainable. It is submitted that subsequent to the Section 4 notification issued under the LAA, the declaration under Section 6 LAA was issued on 18th March 2004. The impugned Award No.13/2005-06 was issued on 12th August 2005 and possession of the lands falling in Khasra no.23/21/1 and 21/2(4-14) was also taken in the year 2007 itself and handed over to the DDA by preparing possession proceedings on the spot. It is mentioned that “out of the total land measuring 9-12 out of kh No. 23//21/1(2-08), 21/2(2-08) and 24//1(4-16), the Government has taken physical possession of (4-14) and (4-18) could not be taken.” It is submitted that possession of the lands notified was taken from the recorded owners/Petitioners herein, and the acquisition proceedings since became final and binding.

5. In the counter affidavit filed on behalf of the DDA, it is stated that GPA and agreement to sell claimed as ownership documents by the Petitioners did not confer any right, title or interest in their favour and that the acquisition proceedings with regard to the subject land had already gained finality. As regards compensation, it is submitted that “compensation against award No.13/2005-06 in tune of Rs.22,75,08,275/- has been remitted to the L&B Deptt. through cheque No.075263 dated 25.11.2005 for disbursement to the owner of the land.” It is further stated subsequent to the passing of the impugned Award, physical possession of Khasra Nos. 23/21 min (4-14) was handed over to the DDA by the LAC/L&B Department on 27th

February 2006. However, the possession of remaining (0-02) land of Khasra No,23//21 was not handed over to the DDA. A copy of the possession proceedings has been annexed along with the affidavit. It is further stated that the possession of Khasra No.24/1(4-16) has not been handed over to the DDA due to stay orders passed in W.P(C) No.2760/2006.

6. Rejoinders have been filed by the Petitioners against both the counter affidavits of the LAC and the DDA wherein the contents of both regarding payment of compensation as well as taking over of possession have been denied. It has been denied that the ownership documents as claimed by the Petitioners do not confer any legal right, title or interest in the lands in question.

7. Be that as it may, it is seen from the averments made in the petition itself that the lands in question form part of a colony known as 'Begumpur Extension', which is an unauthorized colony awaiting regularization and figures at Sl. No.668 as displayed on the website of the Department of Urban Development, GNCTD.

8. In respect of the lands that form part of unauthorized colony this Court has taken the consistent view that no relief under Section 24(2) of the 2013 Act can be granted. The legal position has been explained in *Mool Chand v. Union of India 2019 (173) DRJ 595 DB* where it has been explained as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the *locus standi* to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No.10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negated similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the

2013 Act. This is a contradiction in terms and is legally untenable.”

9. The above decision has been followed and the legal position has been reiterated by this Court in an order dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*). As clarified in those orders, the dismissal of the present petition will not come in the way of the Petitioners pursuing the claim for regularisation of the unauthorised colony in question.

10. The other difficulty lies from the averment made in the petition in Para 5 regarding the acquisition in question being made for the public purpose of the Rohini Residential Scheme. if in terms of the impugned Award, the land was acquired for public purposes of the Rohini Residential Scheme, then by virtue of the order dated 18th October 2016 of the Supreme Court of India in SLP (C) Nos. 16385-16388 of 2012 (*Rahul Gupta v. DDA*) even if on the date of the said order of the Supreme Court, actual physical possession was not with the DDA, if such physical possession was not handed over to the DDA within ten days thereafter, the DDA would be deemed to be in possession of the lands in question. Therefore even on the Petitioner’s own showing, the factual position regarding possession is not clear.

11. The Petitioners have failed to explain how they has the *locus standi* to claim relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the basis of documents that have no legal sanctity whatsoever. They have also failed to explain the delay in approaching the Court for relief since 12th August 2005, when the

impugned Award was passed. Consequently, in view of the decision in *Indore Development Authority v. Shailendra (2018) 3 SCC 412*, the petition is barred by laches and deserves dismissal.

12. For all of the afore-mentioned reasons the petition is dismissed. The interim order dated 10th March 2017 as confirmed on 3rd January 2018 is hereby vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 14, 2019

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