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

+ **W.P.(C) 12045/2016**

MAYA DEVI AND ORS.

..... Petitioners

Through: Mr. S.K. Rout, Advocate with Mr.
Vikram Singh and Mr. Aman
Mehrotra, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Bhagwan Swarup Shukla, CGSC
with Mr. Kamaldeep, Advocate.
Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA.
Mr. Arjun Pant, Advocate for DDA.
Mr. Siddharth Panda, Advocate for
LAC/L&B.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER

% **29.01.2019**

1. The prayers in this petition read as under:

“i. issue a writ of certiorari and/or any other appropriate writ, order or direction thereby directing the respondents to determine the adequate compensation under section 24(1)(a) of new act, 2013 for the subject land measuring 73 bigha 16 biswa of land comprised in khasra nos. 629/586/340(00-06), 1004/583/340(00-03) out of 1/2 share, 590/501/340(03-01), 506/465/340(00-06), 585/509/340(01-00), 279/1(01-00), 1421/359(14-00), 141(4-16), 142(22-08), 176(02-02), 186(01-06), 194(00-06), 604/263(17-12) out of 1/20 share and 1357/399(05-10) out of 16-2/3 biswansi share situated in village Sadhora Khurd, District Central, Delhi to the share of the petitioners and/or;

OR IN ALTERNATIVE

ii. Issue a writ of certiorari and/or any other writ, order or direction thereby directing the respondents to give other equivalent land in the near proximity of the subject land in village Sadhora Khurd, District Central, Delhi as an exchange of the subject land and/or;

iii. Pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. Learned counsel for the Petitioner states that since possession is not with the Petitioners, the Respondents should, in terms of Section 24 (1) (a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the ‘2013 Act’) pay him compensation according to the 2013 Act.

3. In the counter affidavit filed on behalf of the DDA on 2nd May, 2018, it is stated that the notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 27th April, 1968 followed by declaration under Section 6 LAA on 19th August, 1968.

4. As per the property Register available with the DDA shows, Khasra No. 629/586 (Part) area measuring 02 Biswa was acquired through Award No. 313/356 dated 17th October, 1946 and physical possession of the same was handed over to Delhi Improvement Trust (DIT), predecessor of DDA, by the Land Acquisition Collector/ADM on 18th October, 1946 and this was further transferred to the PWD for ‘80 feet wide circular road’.

5. As regards the land comprising Khasra No. 585/509 admeasuring 01 Bigha and Khasra No. 141 (Part) measuring 03 Biswa, it was acquired through Award No.320/369 and physical possession of the same was handed over to the DIT by the Land Acquisition Collector/ADM on 6th June, 1949 and further transferred to the PWD on 21st October, 1954 for '80 feet wide circular road'.

6. Further, it is stated that as regards land in Khasra Nos. 403/142 and 82 measuring 20 bigha 19 biswa was taken by DIT in exchange from one Shri Sagar Chand Jain in the year 1942. Therefore, according to the DDA, the question of payment of any compensation for this land does not arise.

7. No rejoinder has been filed to the counter affidavit filed by the DDA till date. The stand of the LAC as stated in the counter affidavit handed over in the Court today is that pursuant to the notifications under Section 4 issued on 27th April, 1968 and 13th November, 1959 followed by the declaration under Section 6 on 19th August, 1968, no Award has till date been passed. It is accordingly stated that since there is no Award, possession of the above land was not taken nor was compensation assessed.

8. It is stated that with possession not being taken, paying compensation under Section 24 (1) (a) of the 2013 Act does not arise.

9. Learned counsel for the Petitioner states that he accepts the counter affidavit of the LAC as far as it states that possession was not taken and he still insists that there should be declaration for payment of compensation

under Section 24 (1) (a) of the 2013 Act. It is not possible for this Court to direct payment of compensation when, in fact, according to the LAC, no possession has been taken of land in question and indeed, no Award has been passed in respect of the same.

10. Even if one goes by the affidavit by the DDA, it is prayed that the very Khasra numbers that the Petitioner is talking of, have been taken over by the DDA more than 70 years ago. So, the question of entertaining the prayer of the Petitioner, at this stage, with no explanation for the delay in laches in approaching the Court, does not arise.

11. No rejoinder has been filed to the counter affidavit of the DDA to contest the assertions regarding taking over of the possession. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question gives rise to a disputed question of facts. The fact remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

12. 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.”

13. The above observations have been followed by this Court in several orders including the order dated 10th December, 2018 in WP(C) No. 2734/2015 (*Devender Singh v. The Hon’ble Lt. Governor*) and similar petitions have been dismissed on the ground of laches.

14. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 29, 2019

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