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

+ **W.P.(C) 12086/2016**

VINOD KUMAR & ORS. Petitioners
Through Mr. R. K. Saini, Advocate

versus

UNION OF INDIA & ORS. Respondents
Through Mr. Yeeshu Jain & Ms. Jyoti Tyagi,
Advocates for Respondent/LAC/
L & B
Mr. Arun Birbal, Mr. Ajay Birbal for
DDA

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

% **ORDER**
18.07.2019

1. The prayers in the present petition read as under:

“(a) A writ, order or direction in the nature of certiorari calling for the records of the case for perusal;

(b) A writ, order or direction in the nature of Mandamus declaring that the proceedings under Award No. 19/76-77 in respect of the land measuring 10 Biswa out of Khasra No. 16/1, Village Kotla, Mayur Vihar, Delhi which was not taken possession by the Respondents after the Award and is in possession of the petitioners, stand lapsed in terms of section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

(d) A writ, order or direction in the nature of a writ of mandamus directing the Respondents to pay the cost of this petition to the

Petitioner;

(e) Any other writ, order or direction, which may be deemed fit and proper in the facts and circumstance of the case and in the interest of justice.”

2. It is stated in the petition that one Shri Ramphal was recorded owner of the subject land to the extent of 10 Biswa in Khasra No. 16/1 situated in Village Kotla, Mayur Vihar, Delhi. It is further stated that Ramphal died intestate leaving behind two sons Shri Prem Singh and Shri Rati Ram. The Petitioners in the present petition are the sons of Shri Rati Ram. It is stated that Shri Prem Singh gave up his rights in the subject land in favour of the present Petitioners. It is admitted in para 5 that the LAC took possession of land in Khasra No. 16/1. However, it is stated that possession of the subject land i.e. 10 Biswas in Khasra No. 16/1 was not taken over by the LAC. It is further stated that the Petitioners are in physical possession of the subject land and no compensation has been paid till date.

3. The narration in the petition reveals that notification under Section 4 of the LAA was passed on 13th November 1959. This was followed by declaration under Section 6 of LAA on 20th June 1966. The Land Acquisition Collector (LAC) passed the impugned Award No. 19/1976-77 on 5th January 1977.

4. In the counter affidavit filed by the LAC, it is stated that physical possession of Khasra No. 16 min. (34-11) has not been taken up due to built-up structures on the said land. On the aspect of compensation, it is stated

that as per the RD register, Gaon Sabha is the recorded owner for which compensation of Rs.5,32,004/- was assessed. It is stated that an amount of Rs.3453.44 each was paid to Hari Chand, Rajesh and Ramo, Rs.20,253/- was paid to Hari Chand, Rs.4,95,203.19 was sent to the ADJ on 17th August 1979 and remaining amount of Rs.6187.39 was deposited in the RD. It is also stated that the petition is grossly barred by delay and laches as the award was passed in 1977 and the Petitioners are approaching the court in 2016 which is almost after 4 decades.

5. In the rejoinder filed by the Petitioners to the counter affidavit of the LAC it is denied that Gaon Sabha is the recorded owner of the property. It is also stated that no compensation has been paid to any of the recorded owners.

6. In the course of the hearing, it transpired that Kotla Village Extn. Mayur Vihar-I is one of the unauthorized colonies in respect of which a provisional regularization certificate has been issued. On the website of the Department of Urban Development of the GNCTD, the complete list of unauthorized colonies in respect of which tentative application forms and tentative layout plans had been submitted and which are awaiting regularization has been put up. Kotla Village Extn, Mayur Vihar-I is one of those unauthorized colonies, which figures at S.No.1109. Clearly, therefore, the property in question forms part of the unauthorized colony.

7. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question holds no good, as the land forms part of an unauthorised colony. Even as regards the Petitioners' entitlement to

compensation, the pleadings referred to above give rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. This Court has in a series of orders, consistently held that where the property in question is part of an unauthorized colony, no relief under Section 24 (2) of the 2013 Act can be granted. The legal position has been summarized by the Court in ***Mool Chand v. Union of India* 2019 (173) DRJ 595[DB]** where it was held in paragraphs 48, 49 and 50 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*) negatived 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 Petitioner pursuing the claim for regularisation of the unauthorised colony in question.

10. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition is dismissed.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 18, 2019

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