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

+ **W.P.(C) 761/2017**

SHRI SURESH KUMAR & ORS

..... Petitioners

Through: Mr. M.P. Bhargava, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar Jha and Mr. M.S. Akhtar, Advocate for LAC/L&B/GNCTD. Mr. Dhanesh Relan, Standing Counsel for DDA with Ms. Gauri Chaturvedi, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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07.01.2019

SANJEEV NARULA, J.:

1. The prayer in this writ petition reads as under:

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition proceedings with respect to 5/8 share in 3 Bighs 4 Biswas, that is, 2 Bighas of land comprised in Khasra No.412/318/112min, situated in the revenue estate of Village Masoodpur, NCT of Delhi having lapsed and further quashing the impugned notification No. F.4(98)/64-L&H dated 23.01.1965 issued under section 4, Notification No.F.4(98)/64-L&B-I dated 26.12.1968 issued under Section 6 of the Land Acquisition Act, 1894 and the Award no.90/80-81 dated 22.12.1980 with respect to 5/8 share in

3 Bighs 4 Biswas, that is, 2 Bighas of land comprised in Khasra No.412/318/112min, situated in the revenue estate of Village Masoodpur, NCT of Delhi.

(ii) issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioners over 5/8 share in 3 Bighs 4 Biswas, that is, 2 Bighas of land comprised in Khasra No.412/318/112min, situated in the revenue estate of Village Masoodpur, NCT of Delhi.

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

2. In present case, a Notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd January, 1965 followed by declaration under Section 6 of the LAA on 26th December, 1968. Thereafter an Award bearing No. 90/80-81 was rendered on 22nd December, 1980.

3. Counsel for the Petitioners submits that, compensation has not been tendered or paid to the Petitioners nor deposited in the court as mandated under Section 31 of the LAA. Furthermore, the possession of the land has also not been taken, since the Petitioners are in continuous possession of the subject land. Thus, the Petitioners are entitled for a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed.

4. Learned counsel for the LAC submitted that possession of Khasra no. 412/318/112 min (03-04) has been acquired on 26.12.1980. He further

submitted that as per Naksha Muntazamin, in respect of the subject land, the amount was paid to Shri Ami Chand, S/o Bharat Chand on 13th February, 1981. Relevant portion of the counter-affidavit has been reproduced hereto:-

"9. That as regards status of possession and compensation, it is humbly submitted, the possession of the land in question was taken on 26.12.19.80. So far compensation amount is concerned, it is humbly submitted that as per Naksha Muntzamin the name of Sh. Ami Chand S/o Bharat Singh is recorded against Kh. No 412/318/112 min (03-04) having one third share and the payment of Rs. 24230.14 has been made vide Cheque No. 409025 dt. 13.02.1981."

5. Counter affidavit has also been filed by the DDA, Relevant extract of which is reproduced as below:

"7. Vacant physical and legal possession of the land in question beaing Khasra No. 412/318/112 (03-04) of Village Massodpur has been handed over to the DDA by the LAC/L&B Department on 24.07.1984. Copy of the Possession Proceedings dated 24.07.1984 in respect of Award No. 90/80-81 dated 22.12.80 of Village Masoodpur, Delhi under Section 11 of the Land Acquistion Act, Delhi with respect to the land in question are annexed hereto and marked as Annexure R-1. Possession of the land in question was transferred on the same very dayon 24.07.1984 itself to Self Finance Scheme Development (S.F.S) Land in question was also duly placed at the disposal of answering Respondent/DDA vide notification No. F9/78/L7S dated 03.02.1981."

6. No rejoinder has been filed by the Petitioners to contradict the above assertions of the LAC and DDA respectively. Thus the averment of the Petitioners on continuing to remain in possession of the land becomes a

disputed question of fact.

7. This petition has been filed invoking the extraordinary power of the Court under Article 226 of the Constitution of India. It is a settled position of law that, this Court, in the exercise of Writ Jurisdiction, does not delve into the disputed question the rights and title of the parties. Thus where disputed questions of fact are involved, such matter cannot be decided in a summary proceeding based solely on the pleadings of the parties. Such disputed matters must be decided by the Civil Courts after recording of due evidence in the matter.

8. Learned Counsel for the LAC strongly asserts that this writ petition is liable to be dismissed on ground of delay and laches. There is no explanation whatsoever offered in the petition for the inordinate delay in coming forward to seek relief under Sec.24 (2) of the 2013 Act. The Award for the subject land was passed on 22nd December, 1980, whereas the present petition has been filed after more than 3 decades and no steps have been taken by the Petitioners to follow up on the issue of payment of compensation. The petition is obviously barred by laches.

9. In ***Mahavir v. Union of India (2018) 3 SCC 588***, the Supreme Court held 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.”

10. Following the above Judgment, this Court has in W.P.(C) 2734/2015 (***Devender Singh v. The Hon'ble Lt. Governor***), dated 10th December 2018, W.P.(C) 1380/2016 (***Bhule Ram v. Union of India***), dated 17th December 2018, W.P.(C) 5647/2016 (***Ram Deviv. Govt of NCT of Delhi***), dated 21st December 2018 and in W.P.(C) 6287/2014 (***Kartar Singh v. Union of India***), decided on 19th December 2018, rejected petitions seeking similar reliefs on the ground of laches.

11. For the aforementioned reasons, the petition is dismissed on the ground of delay and laches as well as on merits.

SANJEEV NARULA, J.

S. MURALIDHAR, J.

JANUARY 07, 2019/nk