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

+ **W.P.(C) 7939/2015**

RUKMAN SETH

..... Petitioner

Through: Mr.Subhash C.Jindal, Advocate.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
LAC/L&B.
Mr.Sachin Nahar, Advocate for
R3/EE, PWD.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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09.01.2019

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

“In the aforesaid facts and circumstances of the case, the Petitioner respectfully prays that your Lordship may be graciously pleased to:

a) Issue a Writ/Order/Direction in nature of Certiorari calling for the records of the acquisition proceedings in respect of the land measuring approx. 1222.93 sq. yds. acquired for the purpose of road widening and service road out of Khasra no. 82 & 83, Sarai Pipalthala, Old G.T. Karnal Road, Delhi - 110033 and belonging to mother of the petitioner Late Smt. Shanti Devi Khanna vide Award no. 102-A/72-73 Dated 23.3.1977 (Annexure P/16) and further to pass appropriate writ, order or direction declaring the acquisition proceedings by Respondents

having been lapsed and have become inoperative after the coming into force of the Right to fair compensation and transparency in land acquisition, rehabilitation and Resettlement Act 2013 and the petitioner is entitled to compensation in accordance with the provisions of the said Act.

Or

Pass any other order or orders as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

b) Cost of the Petition be also allowed to the Petitioners.”

2. According to the narration in the petition, notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued on 26th September 1966 followed by declaration under Section 6 of LAA on 30th December 1966. The Award No.102-A/72-73 was passed by the Land Acquisition Collector (LAC) on 23rd March 1977. In the petition itself, there is no whisper of what the Petitioner was doing from 1977 onwards till the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act, 2013 (‘the 2013 Act’).

3. The LAC has filed a counter-affidavit in which it is stated that possession of the land falling in Khasra No.82 (6-06) and 83 (0-08) could not be taken. However, as per the *Naksha Muntazamin*, the compensation was sent to Reference Court under Section 30-31 of LAA on 16th January 1982.

4. As per the counter-affidavit filed by the Respondent No.1 i.e. Public Works Department (PWD), it is stated that the land in question was already used for road widening which was constructed in the year 2008-2009 and is presently being used by the public. It is pointed out that it is beyond imagination that how, when notification for acquiring the land was issued, payment of the compensation was not made by the Government in respect of

land already used for widening of the road in public use. It is further stated that the cost of land has already been paid by the Land Acquisition department and also that 'compensation against land was to be paid by the Land and Building Department of GNCTD.' No rejoinder has been filed by the Petitioner. In any event the questions both as regards the possession and the payment of compensation are disputed questions of fact.

5. As already noted, there is no explanation whatsoever for the Petitioner not approaching the Court for relief since the passing of the award on 23rd March 1977 till the filing of the present petition on 10th August 2015. Learned counsel for the Petitioner kept referring to certain correspondence between the Petitioner and the Department, the earliest of which commences on 20th March 2014, which is only after the 2013 Act came into force. Although counsel for the Petitioner kept stating that the Petitioner was following up, he was candid that there is no document with the Petitioner to substantiate such a plea.

6. 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.”

7. 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 order dated 19th December 2018 in WP(C) No.6287/2014 (*Kartar Singh & Ors. v. Union of India & Ors.*) and similar petitions have been dismissed on the ground of laches.

8. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019

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