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

+ **W.P.(C) 8197/2015**

**RAMESH CHAND**

..... Petitioner

Through: Mr. Jai Bansal, Advocate.

versus

**GOVT. OF NCT AND ORS.**

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Mr. Arun Birbal and Mr. Ajay Birbal,  
Advocates for DDA.  
Mr. Parvinder Chauhan, Advocate for  
R-EDMC.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

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**16.01.2019**

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

“(a) Issue an appropriate writ, orders/order seeking declaration that acquisition proceedings initiated under the land acquisition act, 1894 and in respect of Award No.7/1969-70 dt.27.07.1969 (received through RTI reply dt.16.4.2015 by LAC (East) in respect of petitioner's land comprising plot no. 19 of area 200 sq. yds. in Khasra No.204 of Village-Shakarpur Khas, Delhi declaring the same to be lapsed by virtue of section 24(2) of the right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act, 2013 and pray for issuance of writ of mandamus or any other writ directing the respondent no. 1 to 3 to place the petitioner in physical possession of such part of land comprising of plot no. 19 of area 200 sq. yds. in Khasra

no.204 of village-Shakarpur Khas, Delhi from the illegal possession of respondent No.4.

(b) issuance of appropriate writ of mandamus directing the respondent no. 1 to 3 to place the petitioner in physical possession of such part of land comprising of Plot no.19 of area 200 sq. yds. in Khasra No.204 of Village- Shakarpur Khas, Delhi from the illegal possession of respondent no.4 and/or alternatively since no compensation has been paid to the petitioner till date, in case respondent No. 1 to 2 wish to acquire the subject land, they may do under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by paying adequate compensation;

c) Pass such other and further orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. A counter affidavit has been filed by the DDA on 25<sup>th</sup> May 2016 raising *inter alia* a preliminary objection that with the land acquisition in question having become final under the Land Acquisition Act, 1894(LAA), the present petition raising highly disputed questions was not maintainable as such. It is further stated that the possession of the land was taken over by the LAC concerned and handed over to the DDA on 1<sup>st</sup> June 1977 itself. It is stated that as on date an electricity transformer of the BSES is existing on the land.

3. In a rejoinder filed to the counter affidavit of the DDA, the Petitioner refers to his assertion in para 2.17 of his writ petition that the subject matter of the land in question is under the control of the Horticulture Department of the Municipal Corporation of Delhi (MCD) and some of the remaining

portion of khasra No. 204 (which is not owned by the Petitioner and not under his possession) was under possession of the BSES who have used the same for the purposes of installation of electric transformers. According to the Petitioner, since he has not challenged the acquisition in respect of the said portion, the BSES need not be made party to the Petition.

4. It is further stated in the rejoinder that “physical possession was illegally taken by the Respondents at the back of the Petitioner without payment of compensation”.

5. Separate counter affidavits have been filed by Respondent No. 4, East Delhi Municipal Corporation (EDMC) and the LAC (Respondent No. 2). In relation to the assertion in the petition that land measuring 200 sq. Yds bearing plot No. 19 in khasra No. 204 of Village Shakarpur Khas is in fact now a park, the EDMC states that the said park measures 800 sq. Yds whereas the land in question is only 200 sq. yds. It is stated that the park cannot possibly comprise the plot in question and that “there is nothing to indicate that the land underneath the park being mentioned by the Petitioner is part of khasra No. 204. As such, it is denied that the park in question is comprised of the alleged plot No. 19.” There is no rejoinder filed by the above affidavit of the EDMC.

6. A separate counter affidavit has been filed by the LAC on 12<sup>th</sup> March 2018. The averments in paras 4 and 5 of the said counter affidavits reads as under:

“4. That the present writ petition is liable to be dismissed as the

petitioner has not approached the Hon'ble Court with the clean hands and has asserted that vide possession proceeding dated 8.1.75, the possession of khasra number 204 (1-04) was not taken and when the petitioner returned back to Delhi, he found that his house was demolished and park was in existence at the said khasra number. It is submitted that the actual vacant physical possession of subject land was taken on 19.8.77 on the spot and handed over to DDA on the spot by preparing possession proceeding. Having admitted that the government has taken the possession of subject land as his alleged house was found to be demolished in the year 1977 or thereafter, the petitioner took no action and remained silent till 2015, thus the present petition is also liable to be dismissed on ground of delay and laches. The claim of the petitioner is for 200 sq. yards out of the said khasra number. The compensation for said khasra was paid to Hemlata Jain on 19.3.76, Om Prakash Gupta on 25.1.84, Bhagwati Devi on 12.12.86, Kala Devi on 19.12.86, Chander Ram on 20.4.89, Satyawati on 3.4.91 and Rs. 7561.62 were sent to Reference Court on 1.8.90 u/s 30-31 of Act, 1894 whereas rest of the amount lying in RD. The answering respondent is trying to find out details of the claimants/ interested persons for whom the compensation was referred before Reference Court. The petitioner is not the recorded owner in revenue records thus petitioner cannot contend that he was entitled to any compensation from the Government.

5. It is submitted that the lands of village Shakar Pur Khas were notified for acquisition under section 4 of the Land Acquisition Act, 1894 dated 13.11.1959 and Declaration under section 6 of the said Act was also passed on 18.3.1966. The LAC invited objections under Section 5-A of the said Act and disposed them in accordance with the law and also issued notice u/s 9-10 of the Land Acquisition Act, 1894 before passing an Award No. 7/69-70 on 26.7.1969 and the actual vacant physical possession was taken in the manne, stated supra.”

7. Again there is no rejoinder filed to the above affidavit of the LAC.

8. The assertion by the Petitioner that he has not received any compensation stands contradicted by the stand of the LAC that compensation was paid to the named persons and a further some was sent to the reference Court way back on 1<sup>st</sup> August 1990 under Section 30-31 of the LAA and further that the rest of the amount is lying with the revenue deposit. Therefore the stand of the Petitioner that he had not received any compensation is a disputed question of fact which possibly cannot be examined in the present petition.

9. There are two other major hurdles that the Petitioner faces. One is that in respect of the land acquisition proceedings which culminated in an award dated 27<sup>th</sup> July 1969 and the possession having been taken way back on 1<sup>st</sup> July 1977, no steps were taken by the Petitioner to question the land acquisition proceedings or to pursue in relief both as regards loss of possession or non payment of compensation. This Court has in a series of decisions, following the decision of Supreme Court in ***Mahavir v. Union of India (2018) 3 SCC 588*** dismissed petitions on the ground of laches. The present case is also one such case which deserves to be dismissed on that ground alone. The mere fact that the 2013 Act came into effect on 1<sup>st</sup> January 2014 will not provide a cause of action to the Petitioner, who has not been diligent in pursuing the remedies available to him in accordance with law, to invoke Section 24 (2) of the 2013 Act.

10. The other difficulty in the way of the Petitioner is that the land in question forms part of 1966 colonies which are stated to have been regularized. This Court has in ***Akhil Sibbal v. Government of NCT of Delhi*** (decision dated 10<sup>th</sup> January 2019 in W.P.(C) 3623/2018 observed 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 premises on which such a 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 tried 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.”

11. It may be mentioned here that in similar matters where declarations were sought under Section 24 (2) of the 2013 Act in respect of lands following in certain unauthorized colonies i.e. Sainik Farms (decision dated 8<sup>th</sup> January 2019 in W.P.(C) 10201/2015 (*Gurmeet Singh Grewal v. Union of India*) and Guru Ramdas Nagar (decision dated 19<sup>th</sup> December 2018 in W.P.(C) 1190/2016 (*Harbhagwan Batra v. GNCTD*), the Court has likewise rejected the prayer for being lapse of land acquisition proceedings under Section 24 (2) of the 2013 Act.

12. For all the aforementioned reasons, there is no merit in the present petition and the same is dismissed as such.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**JANUARY 16, 2019**

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