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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 9981/2017

SATPAL SINGH AND ORS.

.... Petitioners

Through: Mr. Sukhbir Sejwal, Advocate.

versus

LAND ACQUISITION COLLECTOR (SOUTH)
AND ANR.

.... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
for LAC/L&B along with Ms. Jyoti
Tyagi, Advocate.
Mr. Ajay Verma, Senior Standing
Counsel, DDA along with Mr.
Vaibhav Agnihotri, Mr. Vinayak
Harshvardhan and Mr. Armaan
Verma, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
05.08.2019

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

“to issue a writ / order / direction in the nature of certiorari calling for the records of the acquisition proceedings with respect to the lands comprised in Khasra no.330 admeasuring 09 Bighas 15 Biswas situated in the revenue estate of Village Lado Sarai, New Delhi i.e the Notification under Section 4 and Declaration under Section 6 and Award No.36/80-81 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become

inoperative qua 03 Bighas 15 Biswas under sec. 11 A of the Land Acquisition Act, 1894

AND

Further to pass appropriate writ, order or directions Directing the Respondent No. 2 to return the land measuring 09 biswas forming part of Khasra No. 330 now 330/2min as the same is unacquired or in the alternate to initiate acquisition proceedings qua the 09 *Biswas* under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.”

2. The background facts are that the land in question i.e. 9*Bighas* 15*Biswas* in Khasra No. 330 in the revenue estate of Village Lado Sarai was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 13th November, 1959 for the public purpose of the planned development of Delhi. This was followed by a declaration dated 16th May, 1966 under Section 6 LAA. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 36/80-81 dated 19th June, 1980. Possession of the land in Khasra No. 330 (06-09) was taken on 24th June, 1980.

3. As far as the Petitioners are concerned, it is averred in the petition that the Petitioners, and earlier their predecessors-in-interest were the recorded owners of the subject land. Copies of the *Khatauni* and *Khasra Girdawari* along with their translated copies have been enclosed with the petition. It is averred in the petition that the possession of 9 *Biswas* taken on 24th June, 1980 is illegal “as the state cannot usurp land without due process of law” as the Award was passed only in respect of 6 *Bighas*. It is further averred that

on 8th October, 2001 an attempt was made to demolish the structure on the subject land and that for that reason, the predecessor-in-interest filed a civil suit on 20th October, 2001 titled *Roop Chand v. Delhi Development Authority* before the Tis Hazari Court and that the suit is pending adjudication. It is averred that the Petitioners are entitled to a declaration of deemed lapsing in respect of 3 *Bighas* 15 *Biswas* under Section 11-A of the LAA as the Award No. 36/80-81 was passed only in respect of 6 *Bighas* even as the LAA Section 6 declaration pertained to the entirety of the subject land and the two-year period within which the award could be passed for the remaining portion of the subject land i.e. 3 *Bighas* 15 *Biswas* had exhausted.

4. A counter affidavit has been filed on behalf of the LAC in which it is averred that the Petitioners are not the recorded owners of the subject land and that they have no *locus* to file the present petition. It is also averred that physical possession of Khasra No. 330/2 (6-09) in village Lado Sarai was taken away back on 24th June, 1980 and that the fact thereof has been admitted by in the petition. It is averred that compensation in respect of the aforesaid land has been duly paid to the recorded owners on 25th February, 1981 i.e. to Roop Chand (1/8th share), Hukam Singh (1/8th share), Fateh Singh (1/8th share), Naraian Singh (1/8th share) and Khajan Singh (1/8th share). It is further averred that the petition is barred by delay and laches as Section 11-A was inserted way back in 1984 and the Petitioners have approached the Court only in 2017.

5. No rejoinder has been filed by the Petitioners to the counter affidavit of the LAC. The assertion by the Petitioners that they remain in possession of a portion of the acquired land and that they are entitled to compensation have been contested by the Respondents in their counter affidavits. The Petitioners by not filing a rejoinder have not been able to deny the averments of the Respondents. The issues therefore raise disputed questions of fact which cannot possibly be examined in these proceedings.

6. Be that as it may, the Petitioners have not offered any explanation for the approaching the Court for relief under Section 11-A of the LAA, nearly 30 years after the insertion of the said Section in the LAA. With the acquisition proceedings not having been challenged for all these years the question of the Court interfering at this stage and directing the Respondents to initiate fresh proceedings under the 2013 Act does not arise.

7. The law as regards laches barring the grant of relief in petitions under Article 226 of the Constitution is abundantly clear. In *State of M.P. v. Nandlal Jaiswal (1986) 4 SCC 566*, the Supreme Court observed:

“24. ... it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause

confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise jurisdiction.”

8. Subsequently in ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu (2014) 4 SCC 10***, the Supreme Court reiterated the above legal position and held:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification.”

9. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 10th November, 2017 as confirmed on 15th February, 2018 stands hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 05, 2019
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