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

+ **W.P.(C) 9365/2015**

TARUN MITTAL Petitioner

Through: Ms. Nishitha Garg, Advocate.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Arjun Pant, Advocate for DDA.
Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

+ **W.P.(C) 9366/2015 & CM APPL. 20518/2018**

TARUN MITTAL Petitioner

Through: Ms. Nishitha Garg, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Arjun Pant and Mr. Sumit
Mishra, Advocates for DDA.
Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

+ **W.P.(C) 9369/2015**

TARUN MITTAL Petitioner

Through: Ms. Nishitha Garg, Advocate.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Parvinder Chauhan, Advocate for
DUSIB.

Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.
Ms. Mrinalini Sen and Ms. Nihaarika
Jauhari, Advocates for DDA.

+ **W.P.(C) 9399/2015 & CM APPL. 20519/2018**

TARUN MITTAL

..... Petitioner

Through: Ms. Nishitha Garg, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% 16.01.2019

1. These writ petitions arise out of a common set of facts. Although they have been heard separately, they are being disposed of by this common judgment.

2. The prayer in W.P.(C) 9365/2015 reads as under:

“It is, therefore, respectfully prayed that this Hon Court may be pleased 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 NOs. 97 (11-14), 104 (2-14) 569-119 (0-18), 612- 439 (12-19) 96 (1-10) situated in the revenue estate, of village Khichripur , Delhi^ acquired vide Award No. 30-A/I 970-71 Supplementary pronounced on

14.03.1977 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as the possession has been, taken pursuant to the award but no compensation with respect to lands have been paid.”

3. The prayer in W.P.(C) 9366/2015 reads as under:

“It is, therefore, respectfully prayed that this Hon Court may be pleased 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 Nos. 430 3-18), 1293/511 (1-10), 444 (5-05), 435/2 (7-00), 532 (1-07), 1412/183 (5-14), 461 (1-10) AND 228 (3-00), situated in the revenue estate of village Mandawali Fazalpur, Delhi acquired vide Award No. 2179 pronounced on 18.11.1968 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land. Acquisition, Rehabilitation and Resettlement Act of 2013 as possession has been taken pursuant to the award but no compensation with respect to lands have been paid.”

4. The prayer in W.P.(C) 9369/2015 reads as under:

“It is, therefore, respectfully prayed that this Hon Court may be pleased 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. 424 (10-07) situated in the revenue estate of village Khichripur , Delhi acquired vide Award No. 28-A/1970-71 Supplementary pronounced on 08.12.1974 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as the possession has been taken pursuant to the award but no compensation with respect to lands

have been paid.”

5. The prayer in W.P. (C) 9399/2015 reads as under:

“It is, therefore, respectfully prayed that this Hon Court may be pleased 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. 702/533 (2-14), 524 (3-18), 534 (4-10), 217 (2-08), 218 (8-08) 238 (3-06), 293 (4-04), 294 (4-07), 297 (4-15), 418 (0-15), 441 (2-08) 442 (1-16), 440 (2-07) 526 (12-09), 298 (4-12), 314 (3-06), 512 (0-12), 514 (2-02) 510 (7-10), 517 (5-14), 535 (3-18) , 703/533 (5-04), 551 (18-12), 615/465 (1-04) 532 (3-09) 754/151 (6-02), 233 (1-09), 98 (5-02), 103 (8-08), 102 (8-04), 679/108 (1-10), 525 (4-01), 473 (5-11), 474 (6-03), 475 (6-15), 476 (8-05), 427 (1-07), 528 (4-12), 499 (2-06), 529 (4-10) 433 (0-15), 290 (27-12), 458 (4-10), 309 (6-15) situated in the revenue estate of village Khichripur , Delhi acquired vide Award No. 28-B/I 970-71 Supplementary pronounced on 07.11.1975 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as the possession has pursuant to the award but no compensation with respect to lands have been paid.”

6. From the narration in the petitions, it is seen that relief is being sought in respect of lands which have stood acquired under awards passed more than four decades ago and yet there is no attempt made anywhere in these petitions to explain the inordinate the delay in approaching the Court for relief. The only claim made is that the Petitioners’ cause of action arose when the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into effect on 1st January 2014.

7. In the counter-affidavit filed by the DDA in each of the petitions way back on 4th February 2016, it is stated that the physical possession of the land in question has already been taken over and handed over to the DDA. In a separate counter affidavit filed by the LAC on 3rd February 2018, in W.P.(C) 9366/2015 it is pointed out in paras 4 and 5 as under:

“4. That the present writ petition is liable to be dismissed as the petitioner has been claiming the rights on the basis of Agreement to Sell dated 10.6.2000 executed between him and his father whereas his father has admittedly expired on 31.1.2006, thus having the executor been expired. The said ‘Agreement to Sell’ has become infructuous and cannot be enforced. The said writ petition is further liable to be dismissed as in the said ‘Agreement to Sell’ dated 10.6.2000, there is no mention of the khasra number 569-119 (0-18), 96 (-18), 97 (11-14) 104 (2-14) & 612-439 (12-09) for which the petitioner has filed the present writ petition. The present writ petition is further liable to be dismissed as the father of the petitioner who allegedly entered upon an Agreement to Sell’ with the petitioner, was also not the recorded owner of the subject land falling in the khasra numbers.

5. That the present writ petition is liable to be dismissed as the petitioners have misguided the Hon'ble Court by stating that the physical possession of the subject land falling in subject khasra number were not taken by the Government nor the compensation has been paid. The facts are however quite different as the part physical possession of the subject land was duly taken on 5.4.1977 on the spot and handed over to the DDA by preparing possession proceeding on the spot. The compensation for the above-said khasra numbers was also sent to the Reference Court u/s 30-31 of the Land Acquisition Act, 1894 on 8.3.1979 as there was an apportionment dispute as per table A annexed with the present counter affidavit.”

8. A similar affidavit has been filed in the other petition. No rejoinder has been filed by the Petitioner either to the affidavit of the DDA or of the LAC

till date in any of the petitions. The assertion by the Petitioner therefore that physical possession of the land in question has not been taken or compensation has not been paid stands gives rise to disputed questions of facts which cannot be examined in the present petitions.

9. The fact remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

10. 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.”

11. 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 similar

petitions have been dismissed on the ground of laches.

12. For all of the above reasons, the petitions are dismissed.

S.MURALIDHAR, J

SANJEEV NARULA, J

JANUARY 16, 2019

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