

\$~

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

19

+ **W.P.(C) 9747/2015**

PARMESHWARI DEVI & ORS. Petitioners

Through: Mr N. Prabhakar, Advocate.

versus

THE HONORABLE LT. GOVERNOR, DELHI & ORS. Respondents

Through: Ms Sobhna Takiyar, Advocate for
DDA.

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

%

09.01.2019

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

“a. Issue a writ in the nature of certiorari/declaratory writ quashing the acquisition proceedings culminating in the award number 17/84-85 dated 16.07.1984 under the erstwhile Land Acquisition Act 1894 qua the agricultural land measuring 1 Bigha and 06 Biswas comprised in khasra number 541/342 in the village Lado Sarai, Tehsil Mehrauli, New Delhi i.e half of the land detailed in the para number 1 of the petition and declaring the acquisition of the aforesaid land as having lapsed in terms of the section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013;

b. issue a writ of mandamus/in the nature of mandamus or any suitable directions to the respondent no.4 for bringing about the commensurate changes in the revenue record recording the ownership of the petitioners with respect to the subject land..

c. pass any other order/suitable directions as this Honourable court deems just and appropriate in the facts and circumstances of the case.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd January 1965 followed by declaration under Section 6 of LAA on 7th January 1966. The Award was passed on 16th July, 1984.

3. According to the Petitioners, on account of the restraint order in W.P.(C) No.5006/1983, the possession of the land could not be taken immediately after the passing of the Award. That writ petition admittedly was dismissed as withdrawn on 24th July, 1987. The possession proceedings of 6th January, 1988 are termed by the Petitioners as ‘paper possession’. It is stated that compensation in respect of half of the subject land i.e. 1 *bighas* and 6 *biswas* was accepted by one of the sons of the predecessor in interest i.e. one Mr Ramesh Kumar. The Petitioners have themselves enclosed an extract of the *Naksha Muntezemmin* in support of their plea of non-payment of compensation with respect of 1 *bighas* and 6 *biswas* of the subject land.

4. There is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for the reliefs in terms of Section 24 (3) of the 2013 Act. According to Mr Prabhakar, learned counsel for the Petitioners, since possession was not taken and the entire compensation amount was not paid, there was no occasion for the Petitioners to seek any relief till the passing of the 2013 Act.

5. In the counter affidavit filed by the DDA, it is stated that the possession of

the land was taken and handed over to the DDA on 6th January, 1988. A copy of the possession proceedings has been enclosed with the affidavit. In the counter affidavit filed on behalf of the LAC, it is stated that compensation in respect of the land in question was deposited in the revenue deposit (RD) in the name of the recorded owners and the extract of 'Statement-A' has been set out in paragraph 7 of the counter affidavit in a tabular form.

6. No rejoinder has been filed to the counter affidavit of the DDA to contest the assertions regarding taking over of the possession. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to disputed question of facts.

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

8. 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.”

9. 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.

10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019

rd