

\$~53

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

+ **W.P.(C) 11471/2017**

MOHD SADDIQA & ANR. Petitioners

Through: Mr. Dhruv Joshi, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Anil Dabas for UOI.
Mr. Rohan Jain for DDA.
Mr. Sanjay Kumar Pathak, Mr.
Sunil Kumar Jha and Mr. M.S.
Akhtar for L&B/LAC.
Mr. Varun Kumar Tikmani for
BDO(South).

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

29.07.2019

%

1. The prayer in the petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the Respondents to grant compensation of the land of petitioners total measuring 16 Bighas and 12 Biswas comprised in Khasra Nos. 537/95(1-06); 80(2-10); 82(0-17); 83(3-06); 46(3-06); 464/234(0-17); 161/34(2-06); 162/34(2-04) situated in the revenue estate of village Hauz Rani, New Delhi, in terms of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re settlement Act, 2013.”

2. It is stated in the petition that the father of the Petitioners Late Shri Sultan Khan “was the recorded co-owner in Khasra No. 537/95(1-06); 80(2-10); 82(0-17); 83(3-06); 46(3-06); 464/234(0-17); 161/34(2-06); 162/34(2-04) 16 Bigha and 12 Biswas situated in the revenue estate of

village Hauz Rani, New Delhi.” It is stated that the said land has been inherited by the Petitioners from their late father. It is stated in the petition that the Petitioners had filed W.P.(C) No. 9747 of 2017 which was dismissed as withdrawn. It is further stated that the no compensation has been received by the Petitioners or their predecessor-in-interest. In ground D of the petition it is admitted that the land had been acquired under the “Resettlement of Displaced Persons Act, 1948.”

3. The narration in the petition reveals that notification under Section 3 of the Re-settlement of Displaced Persons Land Acquisition Act, 1948 was issued on 13th September 1942. The LAC made an offer to the Petitioners at a new rate on 9th November 1962 which was not accepted by the father of the Petitioners.

4. On a bare perusal of the petition, it is clear that the notification was passed in 1942 and the offer was made in 1962 which is 55 years before the Petitioners first filed the petition in this court. The petition is grossly barred by delay and laches.

5. The assertion by the Petitioners that they have not received compensation with respect to the land in question gives rise to a disputed question of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. The law as regards laches barring the grant of relief in petitions under Article 226 of the Constitution is fairly well settled. 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 such jurisdiction.”

7. 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.”

8. The writ petition is accordingly dismissed on the ground of laches, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 29, 2019

abc