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

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+ **W.P.(C) 10067/2015**

JAI BHAGWAN & ORS.

..... Petitioners

Through: Ms Nandita Talukdar, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Yeeshu Jain, Standing Counsel
with Ms Jyoti Tyagi, Advocates for
the LAC/L&B.
Ms Shobhana Takiar, Advocate for
DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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10.01.2019

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

- “a) a) 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. 38 MIN (5-10), 1452 /953/40 MIN (0-8), 955/41 MIN (1-11), 955/41 MIN (0-10) 955/41 MIN (0-10) TOTAL AREA MEASURING 8 BIGHA AND 9 BISWA SITUATED IN VILLAGE MANDAWALI FAZALPUR, ILLAQA SHAHDARA, DELHI acquired vide award No. 2179/69 pronounced on 28/1/1968 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed; and
- b) have become inoperative under section 24(2) of the Right to fair compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act of 2013

as neither possessions of the land of the petitioners have been taken nor compensation with respect to lands have been paid.

Award cost of proceedings to the humble petitioners.”

2. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 13th November 1959 followed by declaration under Section 6 of the LAA on 17th June, 1963. The Award No.2179/87-88 was passed by the Land Acquisition Collector (LAC) on 28th January, 1969.

3. The claim of the Petitioners is that the possession of the land in question was not taken over and compensation was also not paid. It is stated that the land in question was under cultivation and was under physical possession of the father of the Petitioners and after his demise on 5th December, 1991, has continues in their possession.

4. There is no attempt made in the writ petition to offer an explanation for the inordinate delay in approaching the Court for the above reliefs. In fact, there was no narration of events between the date of the award and the filing of the present petition on 17th October, 2015 except stating that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 (‘2013 Act’) became operational on 1st January, 2014.

5. A counter affidavit has been filed by the Land Acquisition Collector (‘LAC’) (East) stating *inter alia* that the actual physical possession of the vacant portion of the land was taken on 3rd December, 1968. In paragraph 5

of the petition, the status of payment of compensation has been indicated. It appears that in respect of many of the recorded owners, the amounts were paid as regards Khasra No.955/41. There was no entry made for payment.

6. A separate counter affidavit has been filed by the Delhi Development Authority ('DDA') raising a preliminary objection that the petition is barred by laches. It is confirmed that the physical possession of the land in question was taken and handed over to the DDA on different dates i.e. 3rd December, 1968 as regards Khasra No.38/2 and 955/41; 26th July, 1971 as regards Khasra No.38/1; and 3rd March, 1983 as regards Khasra No.1452/943/40/2. It is stated that except to the extent of 0-8 in Khasra No.1452/1953/40/2, the land has been earmarked for the proposed Integrated Passenger Terminal-cum-Bus Depot whereas the remaining land has been transferred to the Northern Railway on 18th January, 1993. On its part, the DDA has remitted the compensation amount to the LAC.

7. The affidavit of the LAC was filed on 24th March, 2018 and of the DDA on 27th September, 2018. Till date, no rejoinder has been filed by the Petitioners to either affidavit.

8. It is obvious that the petition is barred by laches. As already noticed, no explanation has been offered by the Petitioners for the inordinate delay in approaching the Court for reliefs. The passing of the 2013 Act cannot by itself constitute a cause of action where the Petitioners have taken no step to pursue a challenge to the land acquisition proceedings in the meanwhile.

9. 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.”

10. Following the above judgment, this Court has in W.P.(C) No.2734/2015 (*Devender Singh v The Hon’ble Lt. Governor*), dated 10th December, 2018, W.P.(C) No.1380/2016 (*Bhule Ram v Union of India*), dated 17th December, 2018; W.P.(C) No.5647/2016 (*Ram Devi v NCT of Delhi*), dated 21st December, 2018 and in W.P.(C) No.6287/2014 (*Kartar Singh v Union of India*), decided on 19th December, 2018, rejected petitions seeking similar reliefs on the ground of laches.

11. For the aforementioned reasons, the writ petition is dismissed on the

ground of laches. The interim order dated 20th October 2015 as confirmed on 7th November 2017 hereby stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 10, 2019
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