

\$~20

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

+ **W.P.(C) 11583/2015**

QAYAMUDDIN

..... Petitioner

Through: Mr. Mohd. Rashid and Mr. W.R.
Khan, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Nikhil Goel and Mr. Aniruddha
Deshmukh, Advocates for DDA.
Mr. Ripu Daman Bhardwaj, CGSC
with Mr. T.P. Singh, Advocate for
UOI.
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 prayer in the present petition reads as under:

“(a) Issue a writ(s), order(s) or direction(s) in the nature of mandamus or certiorari or any other appropriate writ, order or direction thereby declaring the acquisition proceedings and Award bearing No. 5/97-98 dated 10.12.1997 passed in respect of land admeasuring 975 Sq. Yards out of Khasra No. 292 village Okhla, New Delhi as lapsed, unenforceable, null and void in view of the provisions contained in Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

(b) Issue a writ, order or direction in the nature of mandamus or any other appropriate order or direction thereby directing the

respondents not to interfere in any manner whatsoever with the peaceful possession and enjoyment of the land admeasuring 975 Sq. Yards out of Khasra No. 292 village Okhla New Delhi, in possession and occupation of the petitioner;

(c)Pass such other or further order(s) or direction(s) or issue writ(s) which this Hon'ble may deem fit and proper in the facts and circumstances of the present case, in favour of petitioner and against the respondents.”

2. The narration in the present petition is that the Petitioner is the owner of the plot measuring measuring 975 Sq. Yards out of Khasra No. 292 village Okhla New Delhi having purchased it in 1992. The Petitioner claims to be exclusive possession of the land since then. The Petitioner acknowledges that there is a land acquisition Award No. 5/97-98 dated 10th December 1997 in respect of the very same land. The Petitioner claims that he continues to be in possession of the land and that he has not been paid any compensation.

3. In the counter affidavit filed by the LAC, it is pointed out that a notification of Section 4 of the Land Acquisition Act, 1894 (LAA) was issued way back on 4th April 1964. This was followed by a declaration under Section 6 of the LAA on 7th December 1966. Due to inability to trace out the records i.e., the *Naksha muntazamin*, the *Kabza karyawahi* and statement A, the LAC is not in a position to place facts regarding taking of possession in payment of compensation. It is however stated in para 4 that the copy of the *khataoni* relied upon by the Petitioner for the year 2009-2011 reflects the said khasra No. as ‘*gair mumkim aabadi*’.

4. A separate counter affidavit has been filed by the DDA on 1st May 2018 in which it is specifically averred that the Petitioner has purchase the land after

the issuance of the notification under Sections 4 and 6 of the LAA and therefore the sale transaction was itself is void under Section 4 of the Delhi Land (Restriction and Transfer) Act, 1973 (DLRTA). It is pointed that the Petitioner has no locus standi to file the present petition or claim compensation and the petition ought to be dismissed on that ground alone.

5. The Petitioner has not been able to dispute the fact that his purchase of the land in question in 1992 long after the notifications under Sections 4 and 6 LAA rendered the said transaction void in view of the DLRTA. Indeed, on that short ground, the Petitioner would have no locus standi to claim any relief in respect of the said land as the very transaction on the basis of which he is seeking to assert his rights has no legal sanction.

6. That apart, no attempt has been made by the Petitioner in the petition to explain what steps he took to question the land acquisition proceedings. His only averment is that he filed a suit for injunction being Suit No. 305/2000 (New No. 38/2014) which he admittedly withdrew on 2nd September 2016 after the filing of the present petition. The petition is barred by laches.

7. Consequently, there is no merit in this petition and it is dismissed as such.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019/nk