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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision : May 11, 2023

+ W.P.(C) 6239/2023, CM APPLs. 24562/2023 & 24563/2023

MANISH

..... Petitioner

Through: Mr. Ratan Prakash and Mr. Mohd.
Hashim Miyan, Advocates.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Arun Birbal, Advocate for DDA.
Mr. Yeeshu Jain, SC for LAC with Ms.
Jyoti Tyagi, Advocate for LAC.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. 24563/2023 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6239/2023 & CM APPL. 24562/2023 (stay)

1. This petition has been filed by the petitioner with the following prayers:-

“a) Pass a writ of mandamus and/or any other suitable writ, order and/or direction thereby, declaring the entire acquisition proceedings in respect of and in relation to the petitioner's land measuring 1 Bighas 2 Biswas, comprised in Khasra no.

42/19/1(01-02) situated in the revenue estate of village Poothkalan, District North West, Delhi, to the extent of his respective joint share to have lapsed and further issue order or direction thereby quashing the impugned award no. 20/1985-86 of village Poothkalan, district north west, Delhi, in respect of and in relation to the petitioner's land measuring 1 Bighas 02 Biswas, comprised in Khasra no. 42/19/1(01-02) situated in the revenue estate of village Poothkalan, district North West, Delhi, to the extent of his respective joint share in the aforesaid land.

b) Further writ of mandamus and/or any other suitable writ (s), order(s) or direction(s) directing the respondents not to interfere with and/or obstruct the petitioner in the peaceful enjoyment over the land measuring 1 bighas 02 biswas, comprised in khasra no. 42/19/1(01-02) situated in the revenue estate of village pooth kalan, district north west, Delhi, to the extent of his respective joint share in the aforesaid land."

2. This is a second round of litigation by the petitioner, the first being W.P. (C) No. 1611/2018 titled ***Sunita & Ors. Vs. Union of India & Ors.*** decided on July 16, 2019 wherein the following order has been passed:-

"1. The present petition seeks a declaration to the effect that land acquisition proceedings in respect of land admeasuring "1/2 joint share in Khasra No. 42/ 19/ I (01-02), situated in the revenue estate of Village Poothkalan, District North West, Delhi" stand lapsed. Notice under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 11th December 1981. Thereafter, declaration under Section 6 of the LAA was issued on 11th April 1984. The final impugned Award No.20/1985-86 was passed by the Respondent on 11th November 1985.

2. No explanation is given for the inordinate delay by the Petitioner approaching this Court for relief with respect to an Award that was passed way back in 1985.

3. Learned counsel for the Petitioner seeks leave to withdraw this petition with liberty to file a proper petition explaining the inordinate delay in approaching the Court for relief.

4. Dismissed as withdrawn with liberty as prayed for. The interim order passed on 20th February 2018 and confirmed on 15th May 2018 is hereby vacated. The points urged in the counter affidavit of the DDA are permitted to be raised at the appropriate stage.”

3. Learned counsel for the petitioner states that the petitioner herein Manish was also a petitioner in the said petition.

4. At the outset, Ms. Tyagi and Mr. Birbal appearing for the respondents would submit that there is a conclusive finding against the petitioner herein in the earlier litigation that the challenge to the acquisition proceedings was after an inordinate delay. According to them, the petitioner has not explained the delay as was his case while withdrawing the earlier petition. Additionally, Mr. Birbal states that the petitioner is only having 1/56th share in the land in question.

5. Noting the objection raised by the learned counsel for the respondents that the delay has not been explained, on a query to the learned counsel for the petitioner in that regard, he has drawn our attention to para 6 of the petition, which reads as under:-

“6. That the petitioner has rigorously followed up with the respondents from pillar to post but all efforts went in vain as the respondents did not even bothered to consider the legal demand of the petitioner that the acquisition proceedings have already been lapsed in view of the provisions of New LA Act and the judgement dated 06.03.2020 passed by the Hon'ble Supreme Court of India but the respondents told the petitioner

to get the declaration from Hon'ble court to this effect by filling appropriate petition and to this effect the petitioner issued a legal notice through counsel but the respondents have never responded. The copy of legal notice dated 13.04.2023, speed post receipts and tracking report is annexed as Annexure P-3 (Colly)."

6. We are of the considered view that para 6 does not explain the inordinate delay in filing the petition, as it is the conceded position that the notification under Section 4 of the Land Acquisition Act, 1894 was issued on December 11, 1981, the notification under Section 6 was issued on April 11, 1984 and the Award was passed on November 11, 1985.

7. We find no reason to entertain the present petition in the absence of any explanation to the inordinate delay. The petition is dismissed. Pending application, if any, also stands dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 11, 2023/A