



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

% Date of decision: September 11, 2023

(4) + W.P.(C) 7301/2023, CM APPL. 28364/2023

MOHAMMAD IRSHAD & ORS.

..... Petitioners

Through: Mr. Shakil Akhtar, Adv. with
petitioner No.3 in person.

versus

THE STATE OF NCT, DELHI & ORS.

..... Respondents

Through: Mr. Sanjay Kumar Pathak, SC with
Mr. Sunil Kumar Jha, Mohd. Akhtar
and Ms. Nidhi Thakur, Advs. for
LAB/LAC
Ms. Shobhana Takiar, SC with
Mr. Sanjay Katyal, Mr. Nihal Singh,
Mr. Kuljeet Singh and Ms. Kritika
Gupta, Advs. for DDA

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. This petition is taken up for hearing today as September 8, 2023 was declared as holiday.

2. This petition has been filed by the petitioners with the following prayers:

"In the aforesaid facts and circumstances, it is, therefore, most respectfully prayed to this Hon'ble High Court may graciously be pleased to:-

(i) allow the present Writ Petition (Civil) under Article 226 read with Article 227 of the Constitution of India moved on behalf the petitioner, and to declare under Section 24(2) of



the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the aforesaid land acquisition proceeding initiated vide State Government Notification No.F.1(172)/48/LSG(11) dated 13.09.1948 under the Resettlement of Displaced Persons (Land Acquisition) Act, 1948 in respect of the share of petitioners' land comprised in Khasra Nos.183(1-19), 225(5-14), 591/59(4-4) and 592/59(4-4) measuring total 16 Bighas 1 Biswa non-evacuee land situated in revenue estate of village Hauz Rani, New Delhi under Offer/Award No.1027A dated 09.11.1962, as 'lapsed' in view of non-utilization of the said land for the purpose it was acquired, by issuing the writ of mandamus or certiorari or any other appropriate writs, direction or order by this Hon'ble High Court.

(ii) further to stay / restrain the respondents further not to create any third party interest or right, by issuing the writ of mandamus or certiorari or any other appropriate writs, direction or order by this Hon'ble High Court on the basis of material facts and the grounds as stated herein above.

(iii) pass such other or further order/s as this Hon'ble High Court may deem fit and proper in the interest of justice."

3. The case of the petitioners is that they are seeking declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ('Act of 2013', in short) in respect of share of the petitioners in land comprising in Khasra Nos.183(1-19), 225(5-14), 591/59(4-4) and 592/59(4-4) measuring 16 Bighas 1 Biswa non-evacuee land situated in revenue estate of village Hauz Rani, New Delhi. The acquisition had taken place in the year 1948 and the award thereof was passed in the year 1962.



4. The case of the petitioners is that neither the compensation has been paid nor the possession with respect to the land has been taken.

5. On a specific query to the learned counsel for the petitioners is that how the petitioners would answer the delay and laches that has occurred in filing the present petition, the learned counsel for the petitioners except stating that the petitioners, who are the legal heirs of Late Chahat Khan are illiterate and had no means to approach the Court and as such delay has occurred.

6. We are unable to accept the plea of the learned counsel for the petitioners for the simple reason that 75 years have gone by since the acquisition has taken place and even the award was passed in the year 1962.

7. That apart, on a perusal of Annexure-P3, it is clear that the land in question has been depicted as a Government land. The judgment of the Supreme Court in the case of **Indore Development Authority v. Manoharlal, (2020) 8 SCC 129**, is very clear, wherein the Supreme Court has in paragraph (s) 366.8 and 366.9 held as under:

“366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013



Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.” *emphasis supplied*

8. It must be stated that it is too late in the day for the petitioners to approach this Court for the reliefs sought. Moreover, the plea of possession is also unsustainable in view of *Khasra Girdawari* at Annexure-P3 which clearly depicts the government as owner.

9. The writ petition is without any merit and the same is dismissed.

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Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 11, 2023/aky