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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 01.08.2024

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W.P.(C) 11941/2023 and CM APPL. 46771/2023**SHRI ROOP RAM (SINCE DECEASED) THROUGH HIS LEGAL
HEIRS AND ORS.Petitioners****Through: Mr. V.V. Gautam, Ms. Priya Bhatia
and Ms. Nitu Barik, Advs.****versus****STATE (GOVT. OF NCT OF DELHI) AND ORS.....Respondents****Through: Mr. Sanjay Kumar Pathak, SC along
with Mr. Sunil Kumar Jha, Mr. M.S.
Akhtar and Mr. Mayank Madhu,
Advs. for R-3/LAC.****CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (Oral)**

1. The petitioners have filed the present petition, *inter alia*, praying that directions be issued to the respondents to hand over the possession of 6 bighas and 9.5 biswas of land and to further pay compensation for 2 bighas and 0.5 biswa of land located at village Karawal.
2. The present petition has been filed in the name of Sh. Roop Ram son of Sh. Shibba, who has since expired. It is stated that he was survived by his three sons – Sh. Chander Singh, Sh. Hukam Singh and Sh. Bharat Singh. They have also since expired. One of the sons of late Sh Hukam Singh, has also expired. The present petition has been filed by the legal heirs of Sh. Chander Singh, Sh. Hukam Singh, Sh. Bharat Singh as well as the legal



heirs of the deceased Sh. Diwan Singh son of Late Sh. Hukam Singh.

3. The petitioners state that the *jamabandi* of the village Karawal Nagar, Delhi for the year 1949-50 indicates that Late Sh. Roop Ram held 8 bighas and 10 biswas of land comprising in Khasra/Khatoni No. 1483/1092 at Village Karawal Nagar (hereafter *the subject land*). The petitioners also claim that Sh. Roop Ram continued to be in physical possession of the subject land till the year 1958.

4. On 14.02.1958, a notification under Section 4 of the Land Acquisition Act, 1894 (hereafter *LAC Act*) was issued for acquisition of 50 bighas and 1 biswa of land in village Karawal Nagar for the rehabilitation of flood affected villages of Sabhapur Chohan at Karawal Nagar. This was followed by a declaration under Section 6 of the LAC Act, which was published on 11.04.1958.

5. The petitioners state that when the respondents took over possession of the entire 50 bighas of land, it also included the land admeasuring 2 bighas and 0.5 biswa belonging to Late Sh. Roop Ram.

6. On 20.06.1958, the Collector made an award under Section 11 of the LA Act in respect of the acquired land which included 2 bighas and 0.5 biswa of the subject land of Sh. Roop Ram. The compensation at the rate of ₹160 per bigha was determined in respect of 43 bigas and 3 biswas of the land. The petitioners claim that the same included 2 bigas and 0.5 biswa land belonging to Late Sh Roop Ram. However, notwithstanding that the award included only 2 bigas and 0.5 biswa of land belonging to Sh. Roop Ram, his entire land measuring 8 bighas and 10 biswas was taken over by the respondent. The petitioners claim that taking over possession of the subject land was in violation of the Article 31 and Article 300A of the Constitution



of India.

7. The petitioners claim that Sh. Roop Ram expired on 20.05.1978. Admittedly, during his lifetime, he did not take any steps for recovery of the compensation for the subject land. The petitioners now claim compensation in respect of 2 bigas and 0.5 biswa of land, which was included in the award dated 20.06.1958 and seek the possession of 6 bighas and 9.50 biswas of land, which was not the subject matter of acquisition.

8. The three sons of Late Sh. Roop Ram – Sh. Hukam Singh, Sh. Bharat Singh and Sh. Chander Singh expired on 13.05.2002, 30.04.1968 and 06.09.1991, respectively. They also, during their lifetime, did not take any steps for claiming any compensation or possession of the subject land.

9. The petitioners claim that sometime in September, 2021, the great-grandson of Sh. Roop Ram (son of Sh. Dharambir Singh) became aware of the land records pertaining to the subject land and also secured a copy of the Award No.860 of 1958, Goshwara No.126 dated 07.07.1958. He, upon examining the land records, became aware that his great grand-father, Late Sh. Roop Ram, had some agricultural land in village Karawal Nagar, Delhi at the time of issuance of the Notification dated 14.02.1958 under Section 4 of the LA Act.

10. The petitioners claim that on 15.09.2021, the legal heirs of Sh. Roop Ram made a request to the office of Divisional Commissioner for an attested copy of the Award and the copies of *jamabandi* for the year 1949-50. The said copies were made available to them on 07.12.2021. The petitioners claim that since they are not conversant with Urdu language, they themselves took steps to get the documents translated in English through the official translator and on perusal of the same, came to know that their grand-



father (Sh. Roop Ram) owned 8 bighas and 10 biswas of land in Village Karawal Nagar, Delhi. They then acquired certain other documents which, according to them, confirmed the same.

11. The petitioners state that, they had in their childhood heard that some land had been acquired by the government for rehabilitation of flood affected persons of Village Sabhapur Chohan at Karawal Nagar, Delhi.

12. It is in the aforesaid facts that the petitioners now seek to claim compensation in respect of 2 bighas and 0.5 biswa of land and further seek possession of 6 bighas and 9.5 biswas of land from the authorities.

13. The petitioners have produced a copy of an award no.860 made by the Land Acquisition Collector on 20.06.1958. The same indicates that Notification dated 14.02.1958 under Section 4 of the LA Act was issued in respect of the land measuring 50 bighas and 1 biswa of land for rehabilitation of flood affected villages of Sabhapur Chouhan at Karawal Nagar. The declaration under Section 6 of the LA Act in respect of the same land was issued on 11.04.1958 and an order of taking possession of the said land was passed.

14. Although, the Notifications under Sections 4 and 6 of the LA Act were in respect of the land measuring 50 bighas and 1 biswa of land, on actual measurements of the land on spot, the same was found to be only 43 bighas and 1 biswa. The possession of the said land was taken over and none of the interested persons except one (Munshi Ram) had claimed ₹3 per square yards for compensation of the land. The Land Acquisition Collector had determined the rate of compensation at ₹160 per bigha Kham. However, the award dated 20.06.1958 incorrectly mentioned the area as 43 bighas 3 biswas instead of 43 bighas 1 biswa. This was corrected by the Land



Acquisition Collector by a supplementary award made on 07.07.1958.

15. In view of the above, the contention that part of the lands covered under Notifications issued under Section 4 and 6 of the LA Act were not acquired, is erroneous. The land on physical measurement was found to be only 43 bighas and 1 biswa. Thus, the award made under Section 11 of the LA Act does not support the petitioner's contention.

16. It is also apparent from the above, the present petition is hopelessly barred by limitation. The possession of the land, which the petitioners now claim, was admittedly taken over by the respondents on 20.06.1958. Although, the provisions of the Limitation Act, 1963 does not apply to proceedings under Article 226 of the Constitution of India, in *State of Madhya Pradesh v. Bhailal Bhai: 1964 SCC Online SC 10*, the Supreme Court had observed as under:

“21.Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable.”

17. It is also well settled that a remedy under Article 226 of the Constitution of India is discretionary and the courts would exercise their discretion bearing in mind the settled principles of law. In the given facts, we are unable to accept that the petitioners ought to be permitted to challenge the proceedings which were concluded about sixty-six years ago.



18. The learned counsel appearing for the petitioners referred to the decision in the case of ***Vidya Devi v. State of Himachal Pradesh and Others: (2020) 2 SCC 569***, whereby the Supreme Court had directed the respondent State to pay compensation to the appellant. He submits that the facts in the present case are similar to the facts in that case.

19. We are unable to accept that any relief can be granted to the petitioner on the strength of the aforesaid decision. First, the facts obtaining in that case are not similar to the facts of the present case. In that case, the land of the appellants was acquired in the year 1967-68. Some of the land owners, whose land was acquired, had approached the Hon'ble High Court of Himachal Pradesh in a writ petition ***CWP 1192/2004*** captioned ***Anakh Singh & Ors v. State of Himachal Pradesh and Others*** for claiming compensation. The said petition was allowed by the Hon'ble High Court of Himachal Pradesh on 23.04.2007. The appellant became aware of those proceedings in the year 2010 and therefore, filed a writ petition before the Hon'ble High Court of Himachal Pradesh seeking a similar benefit as was granted by the High Court of Himachal Pradesh on 23.04.2007. In those facts, the Court had issued directions for grant of compensation. In the said case, the appellant was the land owner whose land was acquired. In the present case, the petition is speculative. Neither the land holder nor his sons had during their lifetime challenged the acquisition proceedings. The acquired land on physical measurement was found to be only 43 bigas and 1 biswa and not 50 bigas and apart from one interested person, no other person had raised any issue at the material time.

20. Second, the order in ***Vidya Devi v. State of Himachal Pradesh and Others*** (supra) was passed in exercise of powers under Article 142 of the



Constitution of India, notwithstanding that the appellant's case was barred by limitation.

21. In the present case, it is apparent that the petitioners' claim is hopelessly delayed.

22. In view of the above, we do not consider it apposite to entertain the same.

23. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 01, 2024

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