



\$~245

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

%

Date of Decision: 20.04.2026

+ **LPA 278/2026**

BABU KHAN (DECEASED) THROUGH HIS
LR ASHEQEEN

.....Appellant

Through: Ms. Tasneem Ahmadi with Ms.
Afnan, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ANR.Respondents

Through: Ms. Chand Chopra and Mr. Punishk
Handa, Advocates for Respondent
No.1/DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (Oral)

1. The present Letters Patent Appeal has been filed challenging the Judgment dated 26.02.2026 ("**Impugned Judgment**") passed in W.P.(C) 12886/2009 ("**Writ Petition**"), whereby the Writ Petition was dismissed on the ground of being hopelessly barred by limitation.
2. It is the case of the Appellant that the Writ Petition was filed by the father of the Appellant against Respondent No. 1 - Delhi Development Authority ("**DDA**") for handing over possession of Plot Nos. 164/22 and 165/22 admeasuring 1112 sq. yds., in Abadi Ghosla (Jheel Kurenja), Delhi ("**Property**") or any other plot of equivalent area in the same locality.



3. According to the Appellant, the Property was leased by way of a Lease Deed dated 01.08.1915 in favour of one Allah Bux for a term of 20 years expiring on 31.07.1935. Subsequently, the lease was renewed in favour of Inayatullah, who was successor-in-interest of Allah Bux and grandfather of the Appellant, for a further term of 20 years from 01.08.1935 to 31.07.1955 by way of another Lease Deed dated 24.03.1936.

4. The Appellant submits that the Property was designated as evacuee property during the 1947 partition, resulting in the forfeiture of rights thereto. Subsequently, Inayatullah appealed to the Assistant Custodian (Judicial) at Jamnagar House, New Delhi concerning all his properties. Pursuant to the order dated 12.09.1961, it was determined that Inayatullah had not migrated to Pakistan, precluding his classification as an evacuee; accordingly, his properties, including the Property, were restored. While possession of certain properties belonging to Inayatullah was returned, the Property remained under the control of DDA. On 15.11.1984, DDA executed a lease deed for the Property in favour of Alimuddin and Abdul Hamid, sons of Inayatullah, for a period of 20 years expiring on 14.11.2004, with an option for a further extension of 30 years. Despite this, DDA did not transfer possession of the Property. Alimuddin, the Appellant's grandfather, undertook efforts to obtain possession from DDA; however, it was communicated that the Property had been subject to illegal encroachment and eviction proceedings were underway. Given that the Lease Deed was executed by DDA 23 years after the Assistant Custodian (Judicial) issued its order, Alimuddin presumed that delivery of possession would similarly be delayed.



5. It is contended by the Appellant that since Alimuddin was not keeping well, his son and father of the Appellant, Babu Khan (original Petitioner in the Writ Petition), continued to follow-up the status of the possession regularly with DDA from time to time and was given the same answer that DDA was awaiting the judgment for eviction of encroachers from the Property. It was only when the initial period of 20 years of the Lease Deed had expired, the father of the Appellant was informed by DDA during his visit that there was no existing lease in favour of his father. As the father of the Appellant was illiterate, he sought help from a friend's son and found out that after the partition, Government of India formed the Delhi Improvement Trust to maintain and look after the improvement of Delhi. The said Trust had allotted the Property and the area surrounding to it to Jheel Kurenja Milk Producers Society and, thus, there was no illegal encroachment on the Property, and no eviction proceedings were pending as misrepresented by DDA to the Appellant's grandfather and thereafter to the Appellant's father on regular basis.

6. The Appellant has submitted that on receiving this information, the father of the Appellant sent various communications to DDA, the Minority Commission and the Lieutenant Governor but no response was received. Accordingly, he filed an application under Right to Information Act, 2005 ("RTI") seeking information pertaining to the Property and *vide* response dated 08.12.2008 from DDA, it was informed that the original file of the Property was not readily available / traceable. Accordingly, the father of the Appellant filed the Writ Petition. DDA filed counter affidavit and took a stand that DDA was not liable to handover the Property to the Appellant as



the same was illegally encroached upon and the same was not included in the land leased to Jheel Kurenja Milk Producers Society.

7. According to the Appellant, the stand taken by DDA in the counter affidavit was incorrect and, therefore, the Appellant filed supporting documents, including letter dated 06.06.2008 from the Manager of Jheel Kurenja Milk Producers Society to DDA, which clearly indicated that the Property was leased to the said Society.

8. The Writ Petition was permitted to be amended *vide* order dated 17.09.2012 and DDA filed a counter affidavit to the amended Writ Petition. The Appellant was substituted in the place of his father as his legal representative *vide* order dated 01.05.2017. *Vide* Impugned Judgment, the Writ Petition was dismissed on the ground of delay and laches.

9. The learned Counsel for the Appellant has submitted that the learned Single Judge erred in not considering that DDA was guilty of delay and laches by not executing the Lease Deed for 23 years and not handing over the possession of the Property in non-compliance with the order of the Assistant Custodian (Judicial).

10. It was further submitted by the learned Counsel for the Appellant that by executing the Lease Deed in 1984, DDA admitted the right of the ancestors of the Appellant to the Property. As the lease was granted for 20 years, which was extendable for another period of 30 years, the same would expire only in 2034. Accordingly, there was no delay on part of the father of the Appellant in filing the Writ Petition.

11. The learned Counsel for the Appellant submitted that the learned Single Judge erred in not considering that DDA failed to put the ancestors of



the Appellant back in the original position as per the order of the Assistant Custodian (Judicial) by illegally depriving their right to use the Property. It was further submitted on behalf of the Appellant that DDA suppressed the fact of leasing the Property to a third-party and then, took a stand in response to the RTI application that the file of the Property was not readily available / traceable.

12. The learned Counsel for the Appellant has relied upon the decision in ***Sukh Dutt Ratra & Ors. v. State of Himachal Pradesh & Ors.*** (2022) 7 SCC 508, which held that while right to the property is no longer a Fundamental Right, it continues to be a Constitutional Right under Article 300-A of the Constitution of India, 1950 (“**Constitution**”) and any deprivation of the property has to be in accordance with the procedure established by law. It was submitted on behalf of the Appellant that the possession of the Property was wrongly not handed over to the ancestors of the Appellant by DDA and they were deprived of the Property without following due process of law.

13. The learned Counsel for DDA submitted that there is no infirmity with the Impugned Judgment as the learned Single Judge has dismissed the Writ Petition on the ground of delay and laches as the Appellant had failed to give any explanation for approaching the Court after a long period of delay.

14. We have heard the learned Counsel for the Appellant and the learned Counsel for DDA.

15. The learned Single Judge has observed in the Impugned Judgment that despite the execution of Lease Deed dated 15.11.1984, the possession of



the Property was not handed over to the ancestors of the Appellant by DDA and the Writ Petition was filed only in 2009, after more than 25 years without providing any justification other than the fact that the father of the Appellant was illiterate. The Impugned Judgment has found that the reason given by the father of the Appellant was not satisfactory for explaining the delay and latches in approaching the Court for seeking the relief of handing over the possession of the Property. The delay of 25 years, without any justification, was found to be inexcusable by the learned Single Judge as the same was unexplained and did not fall under exceptional situation, which can give rise to invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution. The cause of action for filing the Writ Petition was found to be dead and long gone in 2009. Accordingly, the Writ Petition was dismissed as being hopelessly barred by limitation in absence of any justifiable reason given by the Appellant for the inordinate delay.

16. Under the facts and circumstances of this case, notwithstanding the execution of the Lease Deed dated 15.11.1984 in favour of the Appellant's ancestors, possession of the property was not transferred by DDA. While the Appellant contends that their ancestors pursued the matter with DDA for handover of possession, there is no documentary evidence supporting any such request made to DDA. The counter affidavit submitted on behalf of DDA asserts that the Appellant's ancestors at no point of time sought possession of the property from DDA. Furthermore, the counter affidavit states that at the time the Lease Deed was executed on 15.11.1984, the Appellant's ancestors did not disclose that they were not in possession of the Property.



17. Admittedly, the Appellant asserts rights to the Property based on the Lease Deed dated 15.11.1984, however the term of the lease expired after 20 years in 2004. Following expiration, the Appellant's predecessors did not initiate any steps to renew the Lease Deed. Additionally, no legal remedy was pursued during the subsistence of the Lease Deed for obtaining possession of the Property. It was only in 2009 that the Appellant's father filed a Writ Petition seeking possession of the Property or in the alternative for allocation of another property of equivalent area within the same locality.

18. The sequence of events outlined above indicates that the predecessors of the Appellant did not actively assert their rights concerning the Property, remaining inactive for an extended period. The learned Single Judge, in the Impugned Judgment, has referred to the case of **Mrinmoy Maity v. Chhanda Koley** (2024) 15 SCC 215, which held that while there is no statutory limitation for filing a Writ Petition under Article 226 of the Constitution, the delay or laches should be considered while exercising discretionary power under Article 226 of the Constitution and the petitioner must approach within a reasonable timeframe in order to not revive causes of action that have expired or naturally ceased.

19. In this case, the Appellant's ancestors did not initiate any proceedings to recover possession of the Property during the 20-year term of the Lease Deed and the Writ Petition was filed after 5 years of its expiration. The explanation provided by the Appellant's father for the delay that he was illiterate was found inadequate in the Impugned Judgment.



20. We concur with the analysis of the learned Single Judge that the Appellant's father did not present any valid justification for the delay or inaction spanning over 25 years in initiating the Writ Petition. The reliance on **Sukh Dutt Ratra** (*supra*) by the learned Counsel for the Appellant does not advance the Appellant's case, as issues of delay and inaction were not addressed in that matter. Even if it is assumed that the Appellant's ancestors were deprived of possession and enjoyment of the Property, they should have pursued legal remedies within a reasonable timeframe, particularly during the period covered by the Lease Deed dated 15.11.1984, which ended on 14.11.2004. Notably, the Writ Petition was filed in 2009, five years after the expiration of the Lease Deed.

21. Although the Lease Deed dated 15.11.1984 provided for a possible extension of 30 years beyond the initial 20-year term, it expressly required the lessee to submit a request "before or at the end" of the 20-year term. No such request was made by the Appellant's ancestors prior to or upon conclusion of the term, which expired in 2004. Consequently, the relief sought in the Writ Petition filed after 5 years post-expiry of the Lease Deed, cannot be entertained, as the Appellant's ancestors failed to exercise the rights conferred by the Lease Deed at the appropriate time. This failure, entirely attributable to the Appellant's ancestors, undermines the possibility of extending the Lease Deed dated 15.11.1984 beyond its expiration. Therefore, DDA cannot be directed to grant an extension of the Lease Deed, given the lack of timely action by the Appellant's ancestors.

22. Therefore, the delay in approaching this Court, without offering any valid justification or exercising the right to extend the Lease Deed dated



15.11.1984 prior to or upon expiry of its 20-year term, renders the Appellant ineligible to seek extraordinary discretionary relief through a writ of *mandamus* compelling DDA to hand over possession of the Property or allot alternative property in the absence of a valid or subsisting Lease Deed in favour of the Appellant at the time of filing the Writ Petition. Consequently, the Writ Petition was correctly dismissed *vide* Impugned Judgment on the grounds of delay and laches.

23. We, therefore, find no infirmity with the Impugned Judgment. Consequently, the present Appeal is hereby dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

APRIL 20, 2026/sms