



\$~9 (Regular matter)

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

Date of Decision: 26.02.2026

+ **W.P.(C) 12886/2009**

BABU KHAN

.....Petitioner

Through: Ms. Tasneem Ahmadi and Ms.
Shubhi Khare, Advs.

versus

DDA

.....Respondent

Through: Ms. Chand Chopra, Mr. Punishk
Handa, Advocate

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

JASMEET SINGH, J (ORAL)

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

“(i) Grant a writ of Mandamus or any other writ in the nature of mandamus directing the respondent to hand over possession of plot No. 164/22 & 165/22 measuring 1112 sq. yd. in Abadi Ghosla (Jheel Kurenja) to the Petitioner, or any other plot of equivalent area in the same locality.

(I) Grant a Writ of Mandamus or any other writ in the nature of mandamus directing the Respondent Nos. 1 and 2 to hand over possession of plot No. 164/22 & 165/22 measuring 1112 sq. yds. in Abadi Ghosla (Jheel Kurenja) to the Petitioner, or any other plot of equivalent area in the same locality and execute an appropriate



Lease Deed for the same.

(ii) Grant a writ of Mandamus or any other writ in the nature of mandamus directing the respondent to execute a fresh Lease Deed for 20 years extendable by another 30 years for such plot as is leased out to the Petitioner and possession handed over to the Petitioner.

(iii) Award the costs to the Petitioner.”

2. The case of the petitioner is that the Deputy Commissioner of Delhi leased a plot of Nazul land admeasuring 1112 Sq. yds. bearing Khasra No. 164/22 and 165/22 Plot No. 1 and 2 situated in Block No. B of Abadi Ghosla (Jheel Kurenja) Delhi (“**subject property**”) and executed a Lease Deed on 01.08.1915 in favour of Allah Bux, son of Maula Bux, for a term of 20 years expiring on 31.07.1935. Later on request of Inayatullah i.e., grandfather of the petitioner, successor in interest of Allah Bux, the Deputy Commissioner renewed the Lease Deed for a further term of 20 years i.e., from 01.08.1935 to 31.07.1955 in favour of Inayatullah and executed another Lease Deed on 24.03.1936. The relevant clauses of the said Lease Deed read as under:-

“(12) The Lessor will at the request and cost of the Lessee at the end of the term hereby granted and so on from time to time thereafter at the end of each such successive further term of years as shall be granted, a new lease of the premises demised hereby execute to the Lessee by way of renewal for a further term as follows:

(a) At second renewal - 20 years.

(b) At third renewal-30 years.

Provided always that each such renewed term of years as shall be granted shall not with the original term of years and any previous renewals exceed in the aggregate the period of 90 years.”



3. During partition, Inayatullah's properties including the subject property was treated as evacuee property and the rights to the same were forfeited. However, later on Inayatullah's appeal to the Assistant Custodian (Judicial), Jamnagar House, New Delhi in respect of all his properties, *vide* order dated 12.09.1961 it was held that since Inayatullah never migrated to Pakistan, he was a non-evacuee and therefore, his properties were restored. The operative portion of the said order reads as under:-

"In view of the above facts, I hold that petitioners title to the property in dispute has been established and that they being non-evacuees, the aforesaid property is restored to them and denotified as such."

4. After the said order, possession of other property was handed over, however, since the possession of the subject property was with Delhi Development Authority ("**DDA**") and DDA executed a Lease Deed for the property on 15.11.1984 for a period of 20 years expiring on 14.11.2004 and extendable by another 30 years. However, despite the same, DDA did not hand over possession. The relevant clauses of the said Lease Deed read as under:-

"12) The Lessor hereby covenants with the Lessee that at the request and cost of the Lessee before or at the end of the said term of twenty years the lessor will execute to the Lessee a new lease of the said of land by way of renewal for a further term of 30 years provided that such renewed term of years as may be granted shall not with the original term of years any previous renewals exceed in the aggregate the period of 90 years and that the lessor shall not be bound to grant such renewal except the then prevailing market rate of rents for the land in the vicinity and save as to the amount of rent to be thereby



reserved and as to the term thereby granted such renewed lease of the said land shall contain such of the covenants provisions and conditions as are reserved and herein contained (excluding only this present covenants for renewal)."

5. Alimuddin i.e., father of the petitioner, was informed that since there was an illegal encroachment on the property, the DDA was awaiting eviction through legal proceedings. Later, the petitioner continued to follow up the status of the possession with the DDA and was also given the same answer. Later, the petitioner was informed that there was no Lease in his favour or his father and that after partition, *vide* Delhi Improvement Trust resolution No. L27(36) - 50 the area on which the subject property is situate had been allotted to one Jheel Kurenja Milk producers Society. Consequently, the petitioner addressed letters to DDA, the Minority Commission and the Lt. Governor.
6. The other Legal Representatives executed Relinquishment Deeds dated in respect of their rights to the subject property in favour of the petitioner.
7. Hence, the present petition.
8. Ms. Ahmadi, learned counsel for the petitioner, states that in the present case, the petitioner pursuant to the Lease Deed dated 15.11.1984 possession of the subject property has not been handed over and hence, the present petition is maintainable. She states that even assuming that the period of 20 years covered in the lease of 15.11.1984 has expired, the petitioner is entitled to another renewal of 30 years which will make the present petition within limitation.
9. In order to justify the delay and laches, she draws my attention to paragraph Nos. 7 and 8 of the amended writ petition, which reads as under:-

"7. It is submitted that inspite of the execution of lease deed dated



15.11.1984, in favour of the ancestors of the Petitioner, the DDA did not hand over possession of the same to the lessees.

8. That during his lifetime, Alimuddin (father of the Petitioner) ran from pillar to post to get possession of the land from the DDA but was informed that since there was an illegal encroachment on the property, the DDA was awaiting eviction through legal proceedings. Not being a very literate man, he trusted the version of the DDA and kept visiting the DDA on a regular basis and was always told that the legal proceedings were still on for eviction of the encroachers. Considering the fact that the Lease Deed was executed after 21 long years from the order of the Assistant Custodian, the said Alimuddin believed that it was normal for the DDA to take so much time and that the possession would be given eventually by the DDA. The Petitioner took over the follow up from his father Alimuddin in the last years of his life as he was not keeping well.”

10. She also relies on the judgment of ***Tasnemul Haq v. Union of India, 2007 SCC OnLine Del 448*** and on the judgment of the Division Bench of this Court in ***Union of India v. Qayyum Khan, 2009 SCC OnLine Del 839***, and more particularly paragraph No. 16, which reads as under:-

“16. We are in agreement with the finding of the learned Single Judge that the issuance of two orders in 1966 and 1971 expressly recognized the right, title and interest of the Chand Khan's properties including the suit property. Chand Khan's properties were declared to be evcuae properties on a mistaken premise that he had been killed in riots or migrated to Pakistan. That mistaken premise is also not disputed. Both Section 16 of the Act and Rule 37



of the Rules embody the restitutionary principle. In fact, the Assistant Custodian proceeded to issue orders for restoration of the properties of Chand Khan on the basis of his power under Section 16. The issue of delay and laches has to be examined on this factual background. In fact, it is the authorities, who slept over the application of the Chand Khan for more than 12 years. Although the first order came to be passed in 1966. When it was realized that erroneous reference was made to Section 20-A of the Act, which was declared to be unconstitutional by the Supreme Court, a fresh order came to be passed only in 1971. The Assistant Custodian thereafter issued notices to the occupants of the other properties but then the jurisdiction and authority of the Assistant Custodian to issue the said notice questioned in this Court by filing a writ petition. The writ petition filed by the occupants came to be disposed of only on 29th November, 1982 whereby the notices were quashed and parties were asked to resort to the remedies as permissible by law. Pursuant to this order, the first respondent also filed a civil suit for declaration and injunction but he could not get temporary injunction. In the meantime, the Assistant Custodian vide his letter dated 6th April, 1997 reiterated that the properties stood restored to Chand Khan under Section 16 of the Act and the first respondent was directed to deal directly with the occupants of the properties. The first respondent then approached the DDA for mutating his name in the property register but that request was also declined on the ground that the property has been already transferred to subsequent purchasers and he was asked to approach the Court of Law. Under



these circumstances, it is not possible to accept the contention of the appellant that the writ petition was belated. It is no doubt true that if there is undue delay in filing the writ petition and there is no plausible explanation for the same, the Court can refuse to entertain it on the ground of laches but the factual situation is entirely different in the present case. The question of any delay or laches does not arise in the present case. It is also pertinent to note that throughout this period, the authorities never disputed the title of Chand Khan and his son and it is by a letter dated 1st December, 1992 they asked the first respondent to approach the Court of law.”

11. Ms. Chopra, learned panel counsel for the respondent/ DDA, opposes the petition on delay and laches and states that the Court need not go into any further issue and only once the petitioner crosses the threshold and explains the reasons why the petitioner had been sleeping over his rights, the Court should examine the merits of the controversy.

12. I have heard learned counsels for the parties.

13. The law of delay and laches has been crystalised. The Hon’ble Supreme Court in ***Mrinmoy Maity v. Chhanda Koley, (2024) 15 SCC 215***, on the said issue categorically held as under:-

“9.An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India.



In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straitjacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such



indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.”

(Emphasis added)

14. The law on power of this Court to dismiss a writ petition on ground of delay and laches alone is well settled. When any individual belatedly approaches the writ Court after sleeping over his/her rights for a long time, such person has no right to the extraordinary relief of writ. Definitely, there is no fixed period of limitation prescribed for filing of a writ petition and hence, such discretion must be exercised with utmost caution and should be used as per peculiar facts and circumstances of each case. However, it does not mean that the extraordinary jurisdiction of the writ court can be used to revive or resurrect a dead cause of action and if the writ petitioner is guilty of delay and laches, this Court has the discretion and power to dismiss the petition on that sole ground itself.

15. In my considered opinion, the present case is such case. Admittedly, the Lease Deed is executed in favour of the petitioner is dated 15.11.1984. As per the petitioner even after execution of the Lease Deed, the possession of the subject property was not handed over to the petitioner.

16. Except the fact that the petitioner has been communicating with the respondent/DDA and the fact that the petitioner was an illiterate person, no reason has been given as to why the petitioner did not initiate any legal proceeding for a period more than 25 years i.e., from 15.11.1984 till the date of filing petition in the year 2009.



17. This period of almost 25 years from execution to Lease Deed to filing of this writ petition is inexcusable and unexplained and definitely, does not fall under exceptional situation which gives rise to the invoking of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The cause of action for filing the present petition in 2009 was dead and long gone.

18. Further, the judgement of *Qayyum Khan (supra)* relied upon by Ms. Ahmadi, learned counsel for the petitioner, is not relevant as there the Division Bench of this Court observed that it was the authorities who slept over the application for restoration for about 12 years. Even the other judgment of *Tasnemul Haq (supra)* is also differentiable as the question of delay and laches was not an issue in the said case.

19. Hence, I am of the view that the present petition is hopelessly barred by limitation and no justifiable reason has been given by the petitioner for the inordinate delay.

20. In view of the aforesaid, the present petition is dismissed.

JASMEET SINGH, J

FEBRUARY 26, 2026/DM

(Corrected and released on 03.03.2026)