

Ankush Jain And Ors vs Union Of India And Anr on 16 January, 2019

Author: S. Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

\$~39

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 8297/2017

ANKUSH JAIN AND ORS

..... Petitioners

Through:

Mr. Anil Kumar, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through:

Mr. Rajneesh Sharma, Advocate for
LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 16.01.2019

1. The prayer in the present petition reads as under:

"(a) this Hon'ble Court may pleased be issued a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land comprised in khasra No.715 min (1-02) situated in the revenue estate of village Siras Pur, Delhi, acquired vide Award No.08/1991-92 dated 06.02.1992 and further to issue an appropriate writ order or direction declaring the acquisition proceedings having been lapsed and have become in operative after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and also award cost of the present proceedings in favour of the petitioners."

2. It is seen from the narration in the petition that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued way back on 9th February 1989 followed by a declaration under Section 6 of the LAA and an Award dated 6th February 1992. It is admitted by the Petitioners that possession of the land was taken by the Government subsequently by demolishing the existing structure of the Petitioners. However it is claimed that compensation was not tendered or paid either to the predecessor of the Petitioners one Shri Sunil Kumar @ Sunil Jain or to any of the

Petitioners till date.

3. There is no attempt made in the petition to explain the inordinate delay in approaching the Court for relief despite the fact that the Award is dated 6th February 1992.

4. A counter affidavit has been filed by the LAC on 29th April 2018. In para 6 of the counter affidavit filed by the LAC, it is stated that "as per records, the possession of the lands being subject matter of this petition has been taken by Government on 18.09.2004." It is further stated "as per records M/s V. P. Enterprises and Shri Sushil Kumar are the recorded owners and compensation of Rs. 45622/- was paid by a cheque dated 15th December 2009 to M/s V. P. Enterprises.

5. Till date there is no rejoinder filed to the said counter affidavit. Counsel for the Petitioner points to an order dated 31st July 2018 passed by this Court which noted his submission that the Petitioners are the legal heirs of Shri 'Sunil Kumar'. The Court then noted "both the parties wish to check up the factual position." No affidavit has been filed till date by the Petitioner to contradict the above submission in the counter affidavit of the LAC that the recorded owner in respect of the land in question are M/s V. P. Enterprises and Shri Sushil Kumar and that compensation have been paid to them.

6. A separate counter affidavit has been filed by the DDA on 11th July 2018 where inter alia it is confirmed that through possession proceedings dated 18th September 2004 the possession of the land in question was duly and legally taken over by the DDA from the Land and Building Department. Further in para 8, it is stated as under:

"8. It is respectfully submitted that, as per statement 'A' the assessment of the compensation against Khasra No. 715 (1-02) of Village Siraspur, has been determined by LAC and petitioners deliberately did not withdrawn the compensation who were well aware about the compensate. Moreover, other owner of the same khasra has withdrawn compensation for the same Khasra vide cheque No. 34183 dated 15.12.2009 amount was Rs. 45,622/- in item no. 468. A true copy of the Statement "A" of village Siraspur vide award no. 8/91-92 is being appended herewith and marked as ANNEXURE R/1."

7. The resultant position is that as far as the question of compensation is concerned, the Petitioners themselves do not dispute having received it. The question of possession is disputed with the Petitioners asserting that they remain in possession whereas the LAC contradicts it. This disputed question of fact which be examined in the present petition.

8. In any event, the petition is barred by laches. This Court has in a series of orders following the judgment of the Supreme Court in Mahavir v. Union of India (2018) 3 SCC 588 dismissed similar matters on account of delay and laches.

9. The petition is accordingly dismissed both on laches as well as on merits.

S. MURALIDHAR, J.

SANJEEV NARULA, J JANUARY 16, 2019 nk