

Mohd. Saddiqe vs Union Of India & Ors on 21 January, 2019

Author: S. Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11722/2015

MOHD. SADDIQE

..... Petitioner

Through: Mr. Arunk Shama, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through:

Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

Mr. Rajesh Kumar and Ms. Santwana,
Advocates for R-UOI.

Ms. Mrinalini Sen and Ms. Niharika
Jauhari, Advocates for R-2/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 21.01.2019

1. The reliefs sought for in the present petition reads as under:

"a. Issue a writ of certiorari and/or any other similar writ, order or direction of similar nature declaring the entire acquisition with respect to the said land of the petitioner forming part of Khasra Nos. 31(0-6); 32 (1-10) and 33 (1-16) total admeasuring 3 Bighas and 2 Biswas situated in the revenue estate of Village Patti Hamid Sarai, Tehsil Hauz Khas, District South, New Delhi , having lapsed and further quashing the impugned Section 3 of the Resettlement of Displaced Persons Land Acquisition Act, 1948 with respect to Khasra Nos. 31(0-6); 32 (1-10) and 33 (1-

16) total admeasuring 3 Bighas and 2 Biswas situated in the revenue estate of Village Patti Hamid Sarai, Tehsil Hauz Khas, District South, New Delhi .

b. pass a writ, order or direction in the nature of a writ of declaration, declaring the acquisition proceedings initiated in respect of the land of the petitioner, forming part of Khasra Nos. 31(0-6); 32 (1-10) and 33 (1-16) total admeasuring 3 Bighas and 2 Biswas situated in the revenue estate of Village Patti Hamid Sarai, Tehsil Hauz Khas, District South, New Delhi , as deemed to have lapsed in view of the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and RFCTLARR (Ordinance) 2015;

c. further pass a writ, order or direction in the nature of a writ of mandamus thereby directing the respondents not to interfere with the peaceful possession and enjoyment of the land forming part of Khasra Nos. 31(0-6); 32 (1-10) and 33 (1-16) total admeasuring 3 Bighas and 2 Biswas situated in the revenue estate of Village Patti Hamid Sarai, Tehsil Hauz Khas, District South, New Delhi; and d. pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. From the narration in the petition, it is seen that the notification under Section 3 of the Resettlement of the Displaced Persons Land Acquisition Act, 1948 was issued way back on 13th September 1948. Even according to the Petitioner, an offer in respect of the land was made vide offer No. 1027 in 1948 itself. The inordinate delay in the Petitioner approaching the Court for relief is not even sought to be explained anywhere in the petition.

3. In the affidavit of Additional District Magistrate (South), it is pointed out that the relief under Section 24 (2) of the 2013 Act is not applicable for land acquired under Resettlement of the Displaced Persons Land Acquisition Act, 1948 and therefore the case is not maintainable as such.

4. An additional affidavit is being filed by the ADM on 23rd April 2018 where a reference is made under Section 105 (3) of the 2013 Act which do not provide that land acquired under the enactments mentioned in the fourth schedule of the 2013 Act would be treated as land acquired under the LAA.

5. In the rejoinder filed by the Petitioner, it is sought to be contended that with effect from 1st January 2015 even lands acquired under the Resettlement of the Displaced Persons Land Acquisition Act, 1948 would be covered in the fourth schedule of the 2013 Act.

6. In any event, there is no explanation for the inordinate delay in the Petitioner approaching the Court for relief in view of the law explained of the Supreme Court in Indore Development Authority v. Shailendra (2018) 3 SCC 412. The Court is not inclined entertain this petition.

7. The petition is dismissed on the ground of laches.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 21, 2019 nk