

Abdul Rehman Through: Rashiduddin ... vs Government Of National Capital ... on 25 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) 828/2017

ABDUL REHMAN THROUGH: RASHIDUDDIN MALIK & ORS.

..... Petitioners

Through: Mr.M.U.Ahmed, Advocate.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &

ANR.

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 25.01.2019

1. The prayers in the present petition read as under:

"a. Issue a Writ /order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land in question bearing Khasra no.378/172 &183, area admeasuring 5 bigha and 3 biswa land situated in the revenue estate of village-Okhla/Tehsil Defence Colony, Delhi acquired vide, award bearing No. 95/83-84, which has been lapsed and become inoperative after coming into effect of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement act of 2013. Further direct them to pay compensation b. Or in the alternative, to further direct the Respondents to allot an alternate plot of similar area/size in the name of the Petitioner; as redressal for the harassment and mental pain caused by the attitude of the Land Acquisition Officials in the light of the detailed facts and circumstances narrated hereinabove.

c. Direct the respondents to pay the compensation amount as entitle by the petitioners with further enhancement.

d. Direct the respondent to initiate the proceeding as per the new Act as the Hon'ble Supreme court directed in the matter of DDAvs Kusham Jain.

e. Award cost of proceedings to the humble petitioners.

f. Any other or further relief which this Hon'ble court may deem it fit and appropriate under the facts and circumstances of the case."

2. The narration in the writ petition is that the notification under Section 4 was issued on 4th April 1964 followed by declaration under Section 6 on 7 th December 1966 and an Award No.95/83-84. According to the Petitioner, he is the owner of the land in question having inherited through the previous owner Shri Abdul Rehman. He also traces title through a registered Will of 22nd January 1996. In the entire petition there is no attempt made to explain the inordinate delay in approaching the Court for relief.

3. In a reply filed on 1st May 2018 by the LAC it is stated in paras 4 and 5 read as under:

"4. That the present writ petition is liable to be dismissed as the petitioner is not the recorded owners of subject land falling in khasra numbers 378/172 (2-03) and 183 (3-00) and there are various recorded owners having 1/5th share each. Kindly refer to page 115 whereby Ld. Single Judge of Hon'ble High Court in Suit No. 2855/96 dismissed the suit of the petitioner and also the DB dismissed the CWP No. 6304/02 at page 130.

5. That it is submitted that the lands of village Okhla were notified vide Notification under section 4 of the Land Acquisition Act 1894 dated 4.4.1964 which was followed by Notification under section 6 of the said Act vide Notification dated 7.12.1966. That it is submitted that the Land Acquisition Collector also passed an Award No. 95/83-84. It is submitted that the possession of subject land however could not be taken due to built up and stay whereas the compensation was sent to RD vide cheque number 536150 dated 28.3.84."

4. Despite the above reply has been filed on 1st May 2018 till date there is no rejoinder filed by the Petitioner. In any event the factum of the Petitioner not having received any compensation is a disputed question of fact which cannot be examined in the present petition.

5. It is obvious that the Petitioner has approached the Court after an extraordinary delay which has not been satisfactorily explained. The Supreme Court in Mahavir v. Union of India (2018) 3 SCC 588 emphasized that a declaration in terms of Section 24 (2) of the 2013 Act has to be sought within a reasonable time. This Court has in its orders dated 10 th December 2018 in WP(C) 2734 of 2015(Devender Singh v. The Hon'ble Lt. Governor) and 17th December 2018 in WP(C) 1380 of 2016 (Bhule Ram v. Union of India) rejected writ petitions seeking similar relief on the ground of laches. There the Court rejected the plea of the Petitioners, which is also urged here, that the 2013 Act offered a fresh cause of action even where the Petitioner themselves made no effort in the intervening period to challenge the acquisition proceedings.

6. Even on merits the Petitioner has failed to rebut the above assertions of the LAC both as regards taking of physical possession of the land as well as on the payment of compensation.

7. The petition is dismissed both on laches as well as on merits. The pending application is also dismissed.

S.MURALIDHAR, J SANJEEV NARULA, J JANUARY 25, 2019 tr