

Janki Dass Bhardwaj vs Union Of India & Anr on 10 March, 2022

Author: Vipin Sanghi

Bench: Vipin Sanghi, Dinesh Kumar Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 4068/2022

JANKI DASS BHARDWAJ

Through:

Mr. Rakesh Kumar, Advoc

versus

UNION OF INDIA & ANR.

Through:

Mr. Digvijay Rai, Mr. D

Mr. Archit Mishra, Advo

Respondent No.2/Airport

of India.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 10.03.2022 CM APPL. 12106/2022 (exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. The writ petition has been preferred to seek the direction quashing of notification no.F4(98)/64 L & H dated 23.01.1965 and the award no.77/86- 87 dated 19.09.1986 in respect of village Mahipalpur, passed by Land Acquisition Collector under the Land Acquisition Act, 1894. The petitioner also seeks direction to the respondents to pay compensation in respect of the acquired land under the new Act i.e. The Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013. The petitioner further seeks direction for payment of compensation in terms of the judgment rendered in SLP No.9036-9038 of 2016, titled as Indore Development Authority V. Manohar Lal & Ors etc. reported as (2020) 8 SCC 129).

4. The notification under Section 4 of the Land Acquisition Act, 1894 in the present case was issued way back on 23.01.1965. This was followed by the notification under Section 6 of the Act on 26.12.1968, and after complying with the provisions of the Land Acquisition Act, 1894, the Land Acquisition Collector passed the aforesaid award on 19.09.1986.

5. Even the dispute with regard to the share of the petitioner was decided under Section 30 and 31 of the Land Acquisition Act, 1894, on 31.10.2011. The present petition has been preferred after nearly 36 years of the passing of the award, and over 10 years after the determination of the share of the petitioner in the acquired land.

6. In our view, the writ petition is clearly barred by delay and laches, and on that ground the same is liable to be dismissed.

7. The submission of learned counsel for the petitioner is that the petitioner is resting its claim on para -366.9 of the aforesaid judgment which reads as follows;

" 366.9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

8. The petitioner further states that in the year 2005, he himself offered the land to the respondent, but the same was not taken over and compensation was not paid to them, therefore it is argued that there is no delay and laches in the present writ petition.

9. We do not find any merit in any of the submissions. Reading of para 366.9, in fact, shows that the Supreme Court has clearly held that in Section 24(2) of the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the New Act, 2013), does not give rise to a new cause of action, to question the legality of concluded proceedings of land acquisition. It further states that Section 24 applies to a proceeding pending on the date of enforcement of the said act i.e. 01.01.2014, and does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question, the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

10. The aforesaid observations of the Supreme Court cannot be taken to mean that merely because proceedings under Section 18 of the Land Acquisition Act, 1894 were pending before this Court when the New Act, 2013 came into force on 01.01.2014, the New Act, 2013 would apply for the purpose of payment of compensation. Despite our repeatedly asking counsel for the petitioner to point out any specific observation or finding to this effect by the Supreme Court in Indore Development Authority (Supra), none has been pointed out. In fact, reading of Section 24 (1) (b) of New Act clearly shows that where an award under Section 11 has been made, then such proceedings shall continue under the provisions of the Land Acquisitions Act, 1894, as if the said act has not been repealed. Admittedly, in the present case, the award under Section 11 was made by the Land Acquisition Collector on 19.09.1986 i.e. much before coming into force of the New act, 2013 on 01.01.2014, therefore, whatever proceedings continued, in respect of said award, are to be governed

by the provisions of Land Acquisition Act, 1894, and not by the provisions of the New Act, 2013.

11. We, therefore, do not find any merit in the present writ petition. In any event of the matter, petition is accordingly dismissed both on the grounds of delay and laches and as also on merits. It goes without saying that the petitioner would be free to pursue his rights under the Land Acquisition Act, 1894.

VIPIN SANGHI, J DINESH KUMAR SHARMA, J MARCH 10, 2022 Pallavi