

Raj Kumar & Ors vs Govt Of Nct Of Delhi & Ors on 18 January, 2019

Author: S. Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
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+ W.P.(C) 7274/2016
RAJ KUMAR & ORS. Petitioners
Through: Mr Shimpy Arman Sharma and
Mr VK Dogra, Advocates.

versus

GOVT OF NCT OF DELHI & ORS. Respondents
Through: Ms Anya Singh, Advocate for R-1
and R-3.
Mr Satyendra Kumar, SCGC for R-2.
Mr Pawan Mathur, Advocate for DDA.
Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER

% 18.01.2019

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

"A. Allow the present writ petition.

B. Issue a writ of mandamus, order, directions, declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 is deemed to have been lapsed in respect of the land bearing Khasra No.37/1 measuring 0 bighas 2 biswas, 37/4 measuring 0 bighas 6 biswas, 42/1 measuring 4 bighas 14 biswas and 43/1 measuring 4 bighas 2 biswas in total measuring 08 bighas 12 biswas, situated in the revenue estate of Village Molarband, New Delhi, in view of the section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

C. Issue a writ, order or direction in the nature of mandamus directing the respondents to pay compensation to the petitioners as per the provisions of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the land belonging to the Petitioners bearing Khasra No.37/1 measuring 0 bighas 2 biswas, 37/4 measuring 0 bighas 6 biswas, 42/1 measuring 4 bighas 14 biswas and 43/1 measuring 4 bighas 2 biswas in total measuring 08 bighas 12 biswas, situated in the revenue estate of Village Molarband, New Delhi acquired under Section 4 of Land Acquisition Act, 1894 and notification dated 24.06.65 under Section 6 of the Land Acquisition Act, 1894 D. Award the cost of the petition to the petitioners;

E. Pass any such further order(s)/directions as this Hon ble Court may deem fit and proper in the facts and circumstances of the case."

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 („LAA ") was issued on 16 th April 1964 followed by declaration under Section 6 of LAA on 24 th June 1965. The impugned Award was passed on 19th October 1981. There is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for the reliefs in terms of Section 24 (3) of the 2013 Act.

3. It is volunteered in the petition that pursuant to the passing of the Award on 19th October 1981, possession of the said land was taken by the authorities through a Kabja Karwai held on 10th April 1997. The claim of the Petitioners is that in spite of the Award being passed and possession being taken, no compensation was paid to the predecessor-in-interest or the Petitioners.

4. In the counter affidavit filed on behalf of the LAC, it is submitted that subsequent to the Award No.1934-D/81-82 being passed on 19th October 1981, possession of the subject land was taken on 10 th April 1997 on the spot by preparing Possession Proceedings and handing it over to the beneficiary department i.e. the DDA immediately. It is further stated that compensation of the land under reference could not be paid to the recorded owners and is lying deposited in the RD on 30 th January 1982, specifically for the purpose of disbursement of compensation to the recorded owners.

5. The counter-affidavit filed by the DDA further confirms the taking over of possession as mentioned above, states that the Petitioners are not the owners of the lands in question. It is further submitted that a sum of Rs.5,43,788.45 towards the compensation payable in terms of the Award in question was released to the Land And Building Department on 23rd March 1981 itself. A copy of the possession proceedings (Annexure R-5) has been enclosed with the affidavit. In any event the fact that the Petitioners do not have possession of the land in question is not in dispute.

6. No rejoinder has been filed to the counter affidavit of the LAC to contest the assertions regarding deposit of the compensation amount in the RD. The Petitioners have failed to explain why they took no steps to recover the compensation that stands deposited in the RD for over three decades now.

7. The fact remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief. On the aspect of laches, in Mahavir v. Union of India (2018) 3 SCC 588 the Supreme Court has observed as under:

"23. In the instant case, the claim has been made not only belatedly, but neither the petitioners nor their previous three generations had ever approached any of the authorities in writing for claiming compensation. No representation had ever been filed with any authority, none has been annexed and there is no averment made in the petition that any such representation had ever been filed. The claim appears not only stale and dead but extremely clouded. This we are mentioning as additional reasons, as such claims not only suffer from delay and laches but courts are not supposed to entertain such claims. Besides such claims become doubtful, cannot be received for consideration being barred due to delay and laches.

24. The High Court has rightly observed that such claims cannot be permitted to be raised in the court, and cannot be adjudicated as they are barred. The High Court has rightly observed that such claims cannot be a subject matter of inquiry after the lapse of a reasonable period of time and beneficial provisions of Section 24 of the 2013 Act are not available to such incumbents. In our opinion, Section 24 cannot revive those claims that are dead and stale."

8. The above observations have been followed by this Court in several orders including the order dated 10th December, 2018 in WP(C) No. 2734/2015 (Devender Singh v. The Hon'ble Lt. Governor) and similar petitions have been dismissed on the ground of laches.

9. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches. The interim order dated 19th August 2016, which was confirmed on 15th January 2018 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 18, 2019 rd