

(2023) 07 DEL CK 0234

In the Delhi High Court

Case No : Civil Writ Petition No. 3522 Of 2023

Deepjot Singh Anand

APPELLANT

Vs

Union Of India Through Lac & Anr.

RESPONDENT

Date of Decision : 24-07-2023

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 17, 17(1), 18

Citation : (2023) 07 DEL CK 0234

Hon'ble Judges : V. Kameswar Rao, J;Anoop Kumar Mendiratta, J

Bench : Division Bench

Advocate : Sarim Naved, Deepjot Singh, Pranay Kumar, Sanjay Kumar Pathak, B.R. Meena, Lalit Kumar, Kushal Raj Tater, Nishat Patware, Anupam Srivastava, Vasuh Misra, Dhairya Gupta

Final Decision : Dismissed

Judgement

V. Kameswar Rao, J

1. This petition has been filed by the petitioner with the following prayers:

"a. Quash Notification No. F7 (23)/95/L&B/LA/12691 dated 12.08.1997 insofar as the same pertains to the land of the Petitioners and

b. Quash Award No. 3/DCW/98-99 dated 15.09.1998 insofar as the same pertains to the land of the Petitioners .

c. Direct return the land acquired by and in possession of the Respondent to the Petitioners.

d. Order such other and further reliefs as this Hon'ble Court may deem fit and proper."

2. In effect the petitioner is challenging the notification issued under Section 4 of the Land Acquisition Act, 1894 ('Act of 1894', for short) dated August 12, 1997 and the award dated September 15, 1998 passed pursuant thereto.

3. The case of the petitioner is that his land has been acquired for the purpose of constructing a Sports School at Village Tikri Kalan, measuring approximately 25 Bighas 13 Biswas bearing Khasra Nos. 65/5/2 (0-12), 6/1 (2-8), 66/1/2/1 (2-00), 1/2/2 (2-7), 2 (4-16), 5 min (1-10) & 10-1 (2-8).

4. According to the petitioner and so contended by his counsel that the notification was issued under the emergency provision, Section 17 (1) of the Act of 1894 stating that the land was acquired for the establishment of Sports School. Till date, the land remains empty and unutilized. However, despite being paid compensation as the land in question is still unutilized for any purpose much less on the ground stated above, the land acquisition notification and the award are liable to be quashed. In support of his submission, learned counsel for the petitioner has relied upon the Judgments of the Supreme Court in the case of Darshan Lal Nagpal v. Govt. of National Capital Territory of Delhi, (2012) 2 SCC 327 and Radhe Shyam v. State of U.P. (2011) 5 SCC 553.

5. On the other hand, Mr. Sanjay Kr. Pathak, learned counsel appearing for the respondent No.1 / LAC would submit that the present petition is an abuse of process of law for non-disclosure of complete and material facts and thus the petitioner has not come to the Court with clean hands. In support of his submission, he has relied upon the Judgment of the Supreme Court in the case of Ramjas Foundation v. Union of India, (2010) 14 SCC 38. That apart, he submitted that the writ petition is not maintainable being grossly hit by delay and laches particularly when the acquisition of land has been made in 1997 and the award has been passed in 1998 and enhanced compensation of more than ₹ 1.2 Crore has already been received by the petitioner. In support of his submission he has relied upon the Judgments of the Supreme Court in the case of Aflatoon and Ors. v. Lt. Governor of Delhi and Ors., (1975) 4 SCC 285 and Kishan Das and Ors. v. State of UP and Ors. (1995) 6 SCC 240.

6. According to Mr. Pathak, the petitioner having accepted the acquisition proceedings in totality and having pursued his remedy for payment of compensation only and thereafter availing all statutory and legal remedies for seeking enhancement of compensation right up to the Supreme Court and having obtained payment of awarded compensation and enhanced compensation and still pursuing the remedy in execution, the petitioner has waived his right to challenge the acquisition proceedings on any ground whatsoever and has acquiesced in compensation proceedings. Thus the present petition is liable to be rejected.

7. According to Mr. Pathak, the reliance placed by the counsel for the petitioner on the judgments in the case of Darshan Lal Nagpal (supra) and Radhe Shyam (supra) are not applicable and clearly distinguishable on facts. According to him, even otherwise, the judgments cannot be read as a statute and cannot be applied in mathematical precision and each case has to be determined in its own facts. He qualifies his submission by filing a short note, wherein the following dates have been highlighted by him:

Date

Particulars

12.08.1997

Notification under Section 4 and 17 of the Land Acquisition Act. 1894 was issued for acquisition of 156 bigha 15 biswa land in Village Tikri Kalan, Delhi including land of petitioner for public purpose namely for setting up sports school near Ghevra More under planned development of Delhi at Public Expenses

10.09.1997

Declaration under Section 6 of the Act was issued.

13.11.1997

In view of invocation of emergency provisions, possession of the acquired land including land in question was taken over and handed over to requisitioning department. (Factum of possession having been taken over is admitted by Petitioner in para 5(c) of writ petition)

15.09.1998

Award No. 3/DC(W) 1998-99 was announced by the LAC. Market value of the acquired land was assessed categorizing 89 Bigha 15 biswa land in

Category A @ Rs. 10 Lakh per Acre or Rs.2,08,333/- per bigha and remaining 67 Bigha acquired land in Category B @ Rs.8,80,000/- per Acre or Rs.1,83,333/- per bigha besides granting statutory benefits i.e. solatium @30% under Section 23(2) of the Act, additional amount @ 12% p.a. under Section 23-1(A) of the Act, interest under Section 34 of the Act @ 9% p.a. for 303 days (w.c.f. 13.11.1997 to 11.09.1998). Petitioner has not denied acquisition of his land by this award. In fact he has participated in award proceedings by filing his claim.

As regards Petitioner's land, compensation as per Naksha Muntzmin was assessed as under:

Category A-18 bigha 5 biswa = Rs.38,02,083.33 Category B-7 bigha 8 biswa = Rs.13,56,666.66 (A+B) 25 bigha 13 biswa = Rs.5158749.99 Solatium @30% (S.23(2) = Rs. 15,47,624.99

Addl. Amount @12% (S.23-1(A)

12.08.1997 to 13.11.1997 = Rs. 1,59,426.57

Interest @9% p.a. (u/S.34)

13.11.1997 to 11.09.1998 = Rs. 3,85,422.22

Thus, the petitioner's total compensation along with statutory benefits came to be Rs.72,51,223.77.

29.10.1998

Notice under Section 12(2) and 31(1) of the Act was served on the petitioner indicating / tendering thereby the sum of Rs.72,51,223.77 payable to him under the award. Petitioner has himself admitted this fact in his earlier writ petition WP(C) No.5463/1999 and in para 5(d) of this writ petition.

25.08.1999

Petitioner filed WP(C) No.5463/1999 seeking directions to the respondent to pay the land acquisition compensation to him along with interest for the period of delay till actual payment. There was no challenge by petitioner to acquisition proceedings or invocation of urgency clause under Sec.17(1) & 17(4) of the Act thereby dispensing

with inquiry under Section 5A of the Act. THE WHOLE THRUST WAS ON PAYMENT OF COMPENSATION WITH INTEREST AND NOT ON CHALLENGE TO ACQUISITION.

20.02.2002

Pursuant to an order on 09.01.2002 directing the Respondents to bring the admitted amount to the Court and pay to the Petitioner, he was paid Rs.72,12,682.00 and Rs.38,542/- was deducted towards TDS (total awarded compensation and statutory benefits paid Rs.72.51,224)

05.05.2005

Vide judgment/order dated 05.05.2005, WP(C) No. 5463/1999 was disposed of. In para 5 of the judgment it has been mentioned as under-

"5. Still there was a difference of Rs.1,27,537.67 which was given to the petitioner after number of hearing on 16.02.2005. While admitted balance of Rs.2.88,748.65 was paid by the respondents again on previous date."

15.10.1998

/18.11.2006

"Reference dated 15.10.1998 under section 18 was preferred by the petitioner and amended reference was filed 18.11.2006. In the reference also there was no challenge to acquisition proceedings. Reference was referred to the learned Court of the Addl. Distt. Judge being LAC No.8/10/01.

10.05.2016

Reference LAC No.8/10/01 was decided by the learned Reference Court granting compensation @ Rs.2,35,815 per bigha for Category 'A' land and Rs.1,90,156 per bigha for Category 'B' land.

The petitioner was held not entitled to 15% interest from 18.02.2010 to 30.03.2016 because the proceedings had been delayed by the petitioner.

09.06.2016

LA.APP. No. 179/2016 titled Deepjot Singh Vs UOI

& Anr. against the judgment of Reference Court was filed by the petitioner.

25.03.2017

Petitioner had also filed Ex. Civil 202/2017 for execution. This fact has not been disclosed in the present writ petition.

28.07.2017

LA.APP. No. 232/2017 titled UOI vs Deepjot Singh and Anr. was filed by UOI through LAC

20.09.2017

Rs.20,35,662 was deposited in this Hon'ble High Court by Asha Agarwal, Dy. Director of Education, Sports vide Cheque No. 048685 dated 19.09.2017 towards compensation/decretal amount in LA APP No. 232/2017

14.03.2018

Cont.Cas(C) No. 195/2018 in LA APP. No, 232/2017 was filed by the Petitioner for alleged non-compliance.

06.07.2018

Cont Cast (C) No. 195/2018 was dismissed finding no merit.

16.07.2018

LA APP. No. 232/2017 filed by UOI was dismissed.

It was directed that the amount deposited in LA.APP. No.232/2017 together with interest if any accrued thereon be released to Deepjot Singh.

It was pointed out that some further amount of about Rs.3 lacs is payable to the appellant in LA.APP. No.179/2016, The Hon'ble High Court directed the beneficiary that the deficient amount be paid directly to the appellant Deepjot Singh.

22.02.2019

In Ex. Civil 202/2017, in the order dated 22.02.2019 it has been observed as under:

"Perusal of record reveals that in part satisfaction of the decree an amount of Rs.28,85,895/- was furnished by JD- No-2 by way of cheque on dated 28.11.2018 before the Ld. Predecessor of this

court, who directed it to be deposited in SBI Bank, Tis Hazari Courts, Delhi in the form of FDR till further orders. Since, DH is entitled to this amount, same be

released to the DHI, as per procedure".

29.03.2019

In Ex. Civil 202/2017 in order dated 29.03.2019 it has been noted that "Today an amount of Rs. 26,34,663/- has been paid to the D.H."

30.05.2019

LA.APP. No. 179/2016 filed by petitioner was dismissed rejecting the grounds urged by petitioner. Hon'ble High Court rejecting the plea of categorization of land in A and B Category and further confirmed the finding of the reference court that the appellant/petitioner was not entitled to interest @ 15% from 18.02.2010 from 30.03.2016.

Petitioner filed FAO(OS) No.131/2019 which was later renumbered as LPA No. 493/2019

22.12.2022

LPA No. 493/2019 was dismissed as not maintainable.

8. We have been informed that even the judgment dated December 22, 2022 was challenged by the petitioner before the Supreme Court and the same has been dismissed.

9. From the aforesaid it is clear that at no point of time did the petitioner challenged the notification under Section 4 and invocation of Section 17 of the Act of 1894. Rather the attempt of the petitioner throughout has been seeking compensation / enhancement of compensation. The notification under Section 4 was issued in 1997, i.e., almost 26 years back. Even the award has been passed around 25 years back. It is too late in the day for the petitioner to challenge the notification / award before this Court only on the ground that there was no urgency in the acquisition.

10. Reliance placed by the counsel for the petitioner in the case of Darshan Lal Nagpal (supra) and Radhe Shyam (supra) have no applicability to the facts of this case. In fact, the ground itself was available to the petitioner even in the year 1997 or for that matter in the year 1998 or even immediately thereafter but not in the year 2023. But the petitioner knowing well his claim, has been seeking remedy for compensation / enhancement of compensation.

11. Additionally, it must be stated that the petitioner has sought a reference under Section 18 of the Act on November 18, 2006 which was decided on May 10, 2016 from which he filed an appeal on June 9, 2016, still he has not challenged the notification under Section 4 and also invocation of Section 17 of the Act of 1894. In fact, he had sought execution of the orders granting compensation and even against the dismissal of LPA No. 179/2016, which was held to be not maintainable, the petitioner has filed an SLP which was also dismissed, though no order of the same has been placed on record.

12. Mr. Pathak is right in submitting that the present petition is nothing but an abuse of process of law inasmuch as the petitioner knowing well his claim for compensation / enhanced compensation has been settled till the Supreme Court, has filed this petition clearly demonstrate the attempt of the petitioner is to again initiate / revive the process of litigation on a different ground altogether. We are of the view that the present petition filed by the petitioner is not maintainable in view of the facts as noted above and the same is dismissed with cost of ☐ 10,000/- to be deposited with the Delhi High Court Advocates Welfare Trust within four weeks.