

(2018) 12 DEL CK 0208

In the Delhi High Court

Case No : Civil Writ Petition No. 2247 Of 2017

Laxmi Narayan And Ors

APPELLANT

Vs

Lt Governor Of Delhi And Ors

RESPONDENT

Date of Decision : 18-12-2018

Acts Referred:

Constitution of India, 1950 — Article 226
Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 — Section 24(2)
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2018) 12 DEL CK 0208

Hon'ble Judges : S. Muralidhar, J; Sanjeev Narula, J

Bench : Division Bench

Advocate : Babu Lal, Yeeshu Jain, Jyoti Tyagi

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. The prayer in the present petition is for a declaration that the acquisition proceedings in respect of land admeasuring 5 Bighas and 17 Biswas in Khasra No. 16 of the village Said-ul-Ajaib, New Delhi have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 ("the 2013 Act").

2. The admitted facts are that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued on 13th November 1959; Section 6 declaration was issued on 10th November 1966 and award No. 7/75-76 was thereafter passed on 23rd August, 1975. It is further not in dispute that physical possession of the land in question was taken on 25th August 1975 itself.

3. In the writ petition, after mentioning the rendering of the award on 23rd August 1975 and that compensation in respect of the "acquired land" has not been paid, the next fact mentioned is the passing of the 2013 Act.

4. When asked to explain the delay in approaching the Court for relief, learned counsel for the Petitioner states that the right of the Petitioner accrued only with the passing of 2013 Act and therefore there was no question of his coming earlier to the Court seeking relief.

5. A similar contention has been negated by this Court in order dated 17th December 2018 in W.P.(C) 1380/2016 (Bhule Ram v. Union of India) and the order dated 10th December 2018 in W.P.(C) 2734/2015 (Devender Singh v. The Hon'ble Lt. Governor). In Devender Singh (supra), while discussing the judgment of the Supreme Court in Delhi Development Authority v. Sukhbir Singh (2016) 16 SCC 258, this Court observed as under:

"7. The delay in approaching the Court for relief was not an issue that was examined in Sukhbir Singh (supra) at all. It might be possible that in some cases, unlike the present one, the Petitioners may have a good explanation for the delay in approaching the Court for relief. They would have to make an effort, particularly if they are seeking to challenge the Award after more than three decades, to explain why they were prevented from coming to Court earlier. Bereft of any such explanation, it is not possible for the Court to entertain the petition only because the 2013 Act has become operational and the Petitioners are seeking to invoke it for relief.

8. While one of the conditions for invoking Section 24 (2) of the 2013 Act is definitely that the Award must have been more than 5 years old, it does not excuse the Petitioners from explaining, even in respect of such Award, why they could not approach the Court earlier for relief.

9. There is a subsequent judgement of the Supreme Court in Mahavir v. Union of India (2018) 3 SCC 588 wherein it was observed as under:

"19. The court is duty bound to prevent the abuse of the process of law in the cases which have been concluded several decades before, in our considered opinion, the provisions of Section 24(2) of the 2013 Act cannot be invoked in such cases of dead claims or stale claims. There are several numbers of cases coming to this court in which matters had been contested up to this court questioning the acquisition and the petitions have been dismissed by this court, and acquisition has attained finality, possession was taken, the award passed. Notice had been issued under Section 12(2) of the Act tendering the awarded amount but it has not been collected by the claimants/land owners deliberately or they had refused to collect it and are not ready and willing to accept it and, thereafter, it has been deposited in the name and account of the owners in the treasury which is also deposited as per the State Government's instructions issued time to time relating to how Government money is to be dealt with. The act of failure to deposit money under section 31 after possession is taken only imposes liability to pay higher interest under section 34. The acquisition would not lapse under the Act. 22. In our opinion, the cases in which there is deliberate inaction of the owners for not collecting the compensation and they do not want

to receive it, Section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by wilful act. The failure to deposit in court under Section 31(1) in such cases would attract only interest as envisaged under Section 34 of the Act and the provisions of Section 24 cannot be so invoked in such cases".

10. The decision in Sukhbir Singh (supra) was, therefore, sought to be distinguished.

11. Even earlier, in the context of challenge to land acquisition proceedings by invoking the jurisdiction of the High Court under Article 226 of the Constitution the Supreme Court in Tamil Nadu Housing Board, Chennai v. M. Meiyappan & Ors. (2010) 14 SCC 309 held:

"14. At the outset, we must state that on the facts of this case, the High Court was not justified in entertaining the writ petition. In our opinion, the writ petition must fail on the short ground that the writ petition had been filed 16 years after the award was announced by the Collector. It is trite law that delay and laches is one of the important factors which the High Court must bear in mind while exercising discretionary power under Article 226 of the Constitution. If there is such negligence or omission on the part of the petitioner to assert his right which, taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party, the High Court must refuse to invoke its extra-ordinary jurisdiction and grant relief to the writ petitioner."

12. The Court in the present case is of the view that the Petitioners have failed to satisfactorily explain the delay of three decades in approaching the Court for relief and, therefore, would be disentitled to the discretionary remedy under Article 226 of the Constitution of India."

6. In the present case, the Court is not satisfied that there is any reasonable explanation for the extraordinary delay of four decades after the passing of the Award in approaching this Court for relief.

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