

**(2008) 05 DEL CK 0222**  
**In the Delhi High Court**  
**Case No : Writ Petition (C) 2552 of 1989**

Maha Singh and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 13-05-2008

**Acts Referred:**

Constitution of India, 1950 — Article 14, 19, 226  
Land Acquisition Act, 1894 — Section 10, 17, 17(1), 17(4), 4

**Citation :** (2008) 05 DEL CK 0222

**Hon'ble Judges :** V.K. Shali, J; Mukul Mudgal, J

**Bench :** Division Bench

**Advocate :** D.V. Khatri, for the Appellant; Sanjay Poddar, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Mukul Mudgal, J.—This writ petition has been filed with the following prayers:

(i) quashing the notification No. F.7(2)/81-L&B (i) (ii) (iii) dated 23rd January, 1981 issued u/s 4, 6 and 17 of the Act (Annexure "A") in respect of the land of the petitioners wherein they are persons interested and in possession bearing land Killa No. 18/2 measuring 2 Bighas 6 Biswas, No. 19/1 measuring 3 Bighas 11 Biswas, No. 22/1 measuring 1 Bigha 14 Biswas, No. 23/1 measuring 4 Bighas 16 Biswas of Rectangle No. 124, Killa No. 3/1 measuring 3 Bighas 14 Biswas, No. 4/1 measuring 1 Bigha 15 Biswas, No. 7/2 measuring 3 Bighas 8 Biswas, No. 8/1 measuring 1 Bigha 16 Biswas, No. 14/1 measuring 2 Bighas 13 Biswas, No. 17/1 measuring 3 Bighas 8 Biswas, No. 24/1 measuring 2 Bighas 1 Biswas, No. 25 measuring 4 Bighas 16 Biswas of Rectangle No. 133 and Killa No. 5/1 measuring 4 Bighas and 4 Biswas of Rectangle No. 140 situated in the revenue estate of Village Dechaun Kalan, Delhi.

(ii) Quashing the acquisition proceedings and award by calling the records of the case in respect of the land in dispute.

(iii) To issue a writ, direction or orders declaring that the Notification u/s 4, 6 and

17 of the Act is illegal, null and void and of no effect whatsoever;

(iv) declaring that the action of the respondents is in violation of the fundamental rights guaranteed under Articles 14 and 19 of the Constitution of India;

(v) restraining the respondents from making and announcing the award and interfering with the petitioners' peaceful occupation, possession, user, enjoyment, right and interest and from taking possession of the aforesaid land;

(vi) such other appropriate writ, order or direction as this Hon'ble Court may in the circumstances of the case, deems fit may kindly be issued; and

(vii) the costs of this petition may also be awarded in favour of the petitioners and against the respondents.

2. Essentially the writ petition challenges the acquisition proceedings initiated by virtue of notification No. F.7(2)/81-L&B (i) (ii) (iii) dated 23rd January, 1981 u/s 4 of the Land Acquisition Act, 1894 for the purpose of construction of Supplementary Drain in the area of Village Dichaon Kalan under the planned development of Delhi. The said notification culminated into passing of an award by invoking urgency clause by invoking Section 17(1) and 17(4) of the Act. The petitioner was issued notices u/s 9 and 10 of the Act and he also did not raise any grievance.

3. In the counter affidavit, the respondent have stated that the physical possession of the land was taken over and handed over to the beneficiary on 27th December, 1982. This plea of the respondent in the counter affidavit filed on 19th November, 2004 has not been refuted by the petitioner, even after a passage of four years. Therefore, it is evident that the possession of the land having been taken on 27th December, 1982 and thereafter the same having been given to DDA has become a Government land though the petitioner has disputed the action of possession having been taken.

4. The petitioner, has however, relied upon a notification dated 7th April, 2006, which according to him pertains to his land and the said notification includes some parts of the khasra numbers of the petitioner's land which also fell in the earlier notification dated 23rd January, 1981.

5. The learned Counsel for the respondent has, however, submitted that once the possession is taken, the land vests in the government free from any encumbrances, and even if another notification is issued with respect to the same land, it does not vest the land owner with any right nor is the Government going to acquire the land which already belongs to it. He further submitted that the compensation in respect of the said land was tendered vide cheque No. 758961 dated 21st March, 2006 in favour of Sh. Kabooly S/o Sh. Ram Prashad for a sum of Rs. 12,452/- drawn on the State Bank of India, Tis Hazari branch, Delhi; cheque No. 758962 dated 21st March, 2006 in favour of Sh. Maha Singh S/o Sh. Sri Ram for a sum of Rs. 92,635/- drawn on the State Bank of India, Tis Hazari branch, Delhi and cheque No. 758963 dated 21st March, 2006 in favour of

Sh. Rattan Singh S/o Sh. Chandgi for a sum of Rs. 44,732/- drawn on the State Bank of India, Tis Hazari branch, Delhi and these cheques are available with him. He further states that these cheques will now be deposited with the learned Additional District Judge, Tis Hazari Courts, Delhi who is directed to deposit the said amount in a short-term fixed deposit. It will be open to the petitioner to either claim the compensation, if permissible in law, in accordance with the notification dated 7th April, 2006 and/or collect the compensation deposited in pursuance to the orders of this Court in the Court of the learned Additional District Judge, Tis Hazari Courts.

6. The writ petition has, therefore, no merit as the land has been acquired for a public purpose namely construction of Supplementary Drain in the area. It may also be stated that the challenge of the petitioner is highly belated and especially in the light of the fact that the possession has already been taken and this writ petition is also barred by laches. Reliance in this regard is placed on *Star Wire (India) Ltd. Vs. State of Haryana and Others*, wherein the Court while referring to an earlier judgment in the case of *State of Madhya Pradesh and Anr. v. Bhailal Bhai and Ors.* held that it is not either desirable or expedient to lay down a rule of universal application but the unreasonable delay denies to the petitioner, the discretionary extraordinary remedy of mandamus, certiorari or any other relief. The learned Counsel for the respondent further relied upon another judgment in the case of *Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others*, wherein the court had held that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification u/s 4(1) and declaration u/s 6, but it should be exercised taking all relevant factors into pragmatic consideration.

7. Accordingly, the writ petition is dismissed and stands disposed of.