

(2019) 01 DEL CK 0021

In the Delhi High Court

Case No : Civil Writ Petition No. 9547 Of 2018, Civil Miscellaneous Application
No. 37138 Of 2018

Satish Kumar Modi

APPELLANT

Vs

Land Acquisition Collector/A.D.M. And Ors

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and
Resettlement Act, 2013 — Section 24, 24(2)

Citation : (2019) 01 DEL CK 0021

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

Bench : Division Bench

Advocate : Pankaj Vivek, Paresh Shreenath, Rajneesh Sharma, Saroj Bidawat,
Mrinalini Sen, Tanmay Yadav

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

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

"a) Issue a writ, order or direction in the nature of certiorari or any other or similar writ or order thereby declaring that the Award No. 23/1987-88 dated 17.06.1987 w.r.t. lands bearing Khasra No.'s. 407(4-17) and 408(8-03) situated in the revenue estate of Village Maidan Garhi, Distt. South-Delhi, New Delhi as having lapsed upon coming into effect of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (NO. 30 OF 2013)"; and

b) Direct the officials of respondent no. 3 to correct the revenue records accordingly; and Pass such other and /further orders as deemed fit and proper in facts of the present case, in favour of the applicant/petitioner."

2. According to the narration in the petition, notification under Section 4 of the

Land Acquisition Act, 1894 ("LAA") was issued on 25th November, 1980 followed by declaration under Section 6 LAA on 18th June, 1985. The assertion in the writ petition is that the acquisition proceedings which culminated in the Award No.23/1987-88 dated 17th June, 1987 were challenged in a number of writ petitions filed in this Court. By a judgment dated 18th November, 1988 in Balak Ram Gupta vs. Union of India and the judgment dated 15th May, 1989 in Balbir Singh vs. Union of India, the aforementioned acquisition proceedings in regard to eleven villages including village Maidan Garhi were quashed.

3. It is further stated that the Petitioner also filed WP(C) No. 41/1986 in this Court which came to be decided on 26th September, 1990 in similar fashion following the aforementioned judgments. It is stated that due to a mistake in the description of the land, Khasra Nos. 407 and 408 were not included in the earlier Writ Petition No. 41/1986. It is then asserted in para 4 (iv) of the petition as under:-

"The petitioner as also all other persons whose lands were affected were under the impression that the entire land acquisition proceedings stood quashed as the declaration under Section 6 stood quashed."

4. It is further averred in para (v) as under:-

"That in pursuance of the said award dated 17.06.1987, symbolic possession of the Kh. No."s 407 & 408 was allegedly taken over by way of Possession proceedings (Kabza Karyawahi) on 16.07.1987. This possession proceeding was not regarding actual takeover of physical possession as the petitioner continues to enjoy peaceful physical possession of Kh. No. 407 & 408 from date of purchase till date."

5. According to the Petitioner, he thereafter applied for sanction to build a farm house on Khasra No. 407, 408, 420 (min) 418 & 419. Building plans were approved on 7th December, 1989. In 1992, he applied for revalidation of the plans. It is stated that in reply to the letter of the MCD to enquire if there was any objection from the land acquisition point of view, the Tehsildar replied by letter dated 24th July, 1992 that the land in question was not notified under Sections 4 & 6 of the LAA. It is asserted in para 4 (ix) that compensation amount assessed for Khasra No. 407 & 408 was "never tendered or paid to the Petitioner as the Respondents also believed that the land acquisition stood quashed."

6. It is then stated that after the 2013 Act came into force on 1st January, 2014, Column 21 of the Khasra Girdawari in respect of Khasra Nos. 407 and 408 recorded that possession had been taken over by the L & B Department on 28th August, 1987. In Column 4, the name of the Petitioner was mentioned and crops were shown to be cultivated.

7. When the Petitioner applied to the Tehsildar inquiring about the status of the lands, the Tehsildar informed him about possession having been taken over way back on 16th July, 1987 and that the compensation amount had been sent to the

RD. The Petitioner has enclosed copies of the Naksha Muntazamin which shows compensation as "unpaid" for Khasra No.408 and gives no details as regards Khasra No. 407. The Petitioner states that he learnt that the amount deposited in the RD towards compensation payable for lands in village Maidan Garhi was used for payment against the award pertaining to the land in village Kakrola and therefore there was no amount standing to the credit of the Petitioner even in the RD.

8. Claiming that all the conditions stipulated in Section 24(2) of the 2013 Act stand fulfilled, Mr. Pankaj Vivek, learned counsel for the Petitioner, states that the declaration sought by the Petitioner in terms of Section 24(2) of the 2013 Act should be issued by the Court.

9. At the hearing of this petition on 12th September, 2018 while directing notice to be issued, the parties were directed to maintain status-quo.

10. Mr. Vivek was unable to explain the inordinate delay in approaching the Court for relief. On the showing of the Petitioner himself it was to his knowledge that the judgment dated 26th September, 1990 in WP (C) No. 41/1986 did not cover the lands in question. He was silent on when he came to know of that so called mistake of Khasra Nos.407 and 408 not being included in that writ petition. He is also silent about when he came to know that possession was recorded as having been taken on 16th July, 1987 itself. It appears that despite being aware that the land acquisition proceedings in respect of the land comprised in Khasra Nos. 407 and 408 were not quashed, the Petitioner kept dealing with the land and did nothing to question the land acquisition proceedings for many years.

11. Section 24 (2) of the 2013 Act is not meant to come to the rescue of such persons, who knowingly deal with the land in respect of which an Award has been made under the LAA. In its judgment dated 19th December, 2018 in WP(C) No. 6287/2014 (Kartar Singh vs. Union of India), this Court rejected pleas of similarly placed Petitioners who were questioning the validity of the land acquisition proceedings and seeking a declaration under Section 24(2) of the 2013 Act long after the passing of the Award and in the meanwhile allegedly dealing with the lands knowing fully well that they stood vested with the State.

12. There has to be some valid explanation for the inordinate delay in approaching the Court for relief and it is not sufficient for the Petitioner to plead that a fresh cause of action arose on 1st January, 2014 when the 2013 Act came into force. Even then, the Petitioner would have to explain why he waited till 21st August, 2018 to file the present petition. There is no explanation for that either. It may be further noticed here that the scope of the decision of this Court in *Balbir v. Union of India* (supra) has been limited to the facts of those cases as was held by the Supreme Court subsequently in *Delhi Administration v. Gurdip Singh Uban* (2007) 7 SCC

13. In *Mahavir v. Union of India* (2018) 3 SCC 588 the Supreme Court has emphasized that reliefs under Section 24 (2) of the 2013 Act have to be sought

in good time. It was 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."

14. The above decision was followed by this Court in a number of decisions including the decision dated 10th December, 2018 in WP(C) No. 2734/2015 in (Devender Singh v. The Hon'ble Lt. Governor), the decision dated 17th December, 2018 in WP(C) No. 1380/2016 (Bhule Ram v. Union of India) and the decision dated 21st December, 2018 in WP(C) No. 5647/2016 in (Ram Devi v. Govt. of NCT of Delhi).

15. Consequently, this Court finds no merit in this petition and it is dismissed as such. The interim order stands vacated. The application is also dismissed.