

\$~67

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgement delivered on :10.04.2017

+

W.P.(C) 129/2017 & CM No.631/2017

MAHAVIR & ORS

..... Petitioners

Through : Dr.Surat Singh, Mr.Vipul Agrawal
and Mr.Saurabh Agarwal, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Ms.Saakshi Agrawal, Adv. for UOI
Mr.Yeeshu Jain, st. counsel with
Ms.Jyoti Tyagi and Mr.Vikram
Singh, Advs. for L&B/LAC

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S. RAVINDRA BHAT, J (Oral)

1. The petitioners claim that the annexure P3 and the award made subsequent thereto in 1911-12 of Village Raisina is illegal and seek a further direction under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 claiming that there should be restoration of land to them or in alternative provide equal land or compensation in accordance with the said Act.

2. The facts of the case are that the petitioners claim to be descendants of residents Kalu and Nathu of Village Raisina. According to the record Village Raisina was a subject matter of

acquisition, the copy of the notice dated 21.12.1911 has been produced. The lands in question which the petitioners claim were also a subject matter of the award (No.55-56/1912) issued by the Colonial Government. It is argued that despite inclusion of the lands in the notification and the determination of the compensation, the purchasers Kalu and Nathu did not in fact receive the compensation. The requisite declaration and consequent direction under Section 24 is sought.

3. To support the grievance learned counsel for the petitioner Dr.Surat Singh urge that though the documentary evidence clearly establishes that the compensation was paid but it was not so proved. It was disbursed much less to land owners. Stressing that there is no inherent limitation either express or implied in the application of the Act of 2013 it was submitted that there was no possibility of the petitioners approaching this Court earlier and barred by limitation or laches is levied by operations of Sections 114. The repealing provisions and Section 24 creates a right in favour of the land owner who was not in receipt of compensation or whose lands were taken possession of once the five year period is crossed.

4. The question is perhaps a unique one – i.e. the parties claim to be aggrieved to approach this Court, waking up like Rip Van Winkle in Indian parlance or what may be called a '*Kumbkarna*' lapse of time. In other words, is it open to the petitioner or a set of petitioners to resuscitate grievance several generations later to claim the protection of a later law? Such claims were never under contemplation when the acquisition was resorted to.

5. It is not disputed that the lands over which the petitioner lays claim were a part of Raisina village which was acquired and on which much of lutyens Delhi has been built. In these circumstances as to whether indeed the petitioners' ancestors were paid compensation or not can be made a subject of enquiry over 104 years later having regard to a later enactment and right which flow directly from it. In the opinion of the Court the award clearly has to be negative. The petitioners are asking this Court to infer and conclude that in the absence of some indication from the records made available by them, that their ancestors did not ever receive any compensation. No contemporary record in the form of letters, protest by them or any other communication stating that compensation was not disbursed or reference to civil proceedings for release of the amounts or seeking decree have been relied upon by the petitioners. In these circumstances if the petitioners are to be allowed to raise such grievances the courts would be open to claims from each succeeding generation, which may say that the previous generation had not received their just dues. Such claims cannot be adjudicated, as they are barred.

6. The writ petition and pending miscellaneous application are dismissed as without merit.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 10, 2017/VLD