

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
C.P. No.D-1404 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE
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Before;

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah.

1. For orders on office objection.
2. For hearing of main case.

Date of hearing: **26.11.2020**

Date of decision: **02.12.2020.**

Mr. Imran Qureshi, advocate for petitioners.
Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh.

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The facts in brief necessary for disposal of instant petition are that the land allegedly owned by the petitioner as is detailed in the petition was acquired by the Government in the year 1986 for construction of road, the award whereof under section 11 of the Land Acquisition Act, 1894 was passed on 19.04.1995 which is challenged by the petitioners before this Court by way of instant petition with the prayer that:

“It is therefore prayer that this Honorable Court may be pleased set aside the Award dated: 9-4-1995, and Award statement dated: 28-05-2009, and direct order the respondent to pass the Award u/s 11 of Land Acquisition Act 1894, after issuing the mandatory Notifications u/s 4 and 6, of Land Acquisition Act 1894 and deposit the compensation in this Honorable Court without further delay.”

2. Land Acquisition Officer has not been made party in the instant petition in his official capacity. However, Province of Sindh and

Secretary to Government of Sindh being party to the instant petition filed comments. It was admitted by them in their comments that the land has been acquired and award has been passed but the petitioners had never turned up to receive the compensation which they are prepared to pay on receipt of the same from the concerned Executive Engineer.

3. It is contended by learned counsel for the petitioners that the land Acquisition Officer was not authorized to acquire the land that too without issuance of notice under sections 4 and 6 of the Land Acquisition Act, 1894; the land acquisition proceedings being illegal are liable to be set-aside with directions to the concerned officials to pass the fresh award, in accordance with law, with payment of compensation to the petitioners. In support of his contention, he has relied upon case of ***Dilshad and 2 others Vs. Senior Superintendent of Police and 2 others (PLD 2007 Karachi 330)***.

4. It is contended by learned Additional Advocate General, Sindh that the award is passed in accordance with law and the instant petition being hit by laches is liable to be dismissed.

5. In rebuttal to above, it is contended by learned counsel for the petitioners that none can be non-suited on account of laches. In support of his contention, he relied upon the case of ***S.A. Jameel Vs. Secretary to the Government of the Punjab, Cooperative Department and others***.

6. We have considered the above arguments and perused the record.

7. Admittedly, the subject land was acquired in year 1986 and award whereof was passed in year 1995, it was not objected in any firm, therefore, challenge to such award by way of filing instant petition after laps of fifteen years is hit by laches. The land Acquisition Officer who has actually passed award has not been made party in his individual / official capacity. Be that as it may, nothing has been brought on record which may suggest that the said Land Acquisition Officer was having no authority to have passed such award. No doubt in year 2009 the damages on account of cutting of mango trees and removal of earth have been calculated by Land Acquisition Officer by award statement but that calculation could hardly be justified to cover the laches in filing of the instant petition.

8. The case law which is relied upon by learned counsel for the petitioners is on different facts and circumstances. In case of Dilshad and others (*supra*) no issue of laches was involved. In case of S.A. Jameel (*supra*) it was held that the issue of laches is to be examined on equitable principals and there is no hard and fast rule for its examination. The challenge to the award after 25 years obviously is hit by laches which could hardly be ignored.

9. In view of above, the instant petition fails and it is dismissed. However, the petitioners may exhaust alternate remedy for compensation (if it is not paid to them) in accordance with Law.

10. No order as to costs.

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