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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **W.P.(C) 8858/2015& CM APPL. 19845/2015**

TARUN MITTAL

..... Petitioner

Through: None.

versus

UNION OF INDIA&ANR.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.

Mr Arjun Pant, Advocate for Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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05.02.2019

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

“ It is, therefore, respectfully prayed that this Hon Court may be pleased to issue a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings with respect to the lands comprised in Khasra Nos.94 (3-18) and 95 (5-02), situated in the revenue estate of village Mandawali Fazalpur, Delhi acquired vide Award No.49-C/70-71/Suppl. Pronounced on 22.12.1982 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as neither possession of the lands of the petitioner have been taken nor compensation with respect to lands have been paid..
Award cost of proceedings to the humble petitioner.

The Hon Court may pass such other and further order as it deems fit and proper under the facts and circumstances of the case.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued on 13th November 1959 followed by declaration under Section 6 LAA on 12th July 1966. The impugned Award No.49-C/70-71/Suppl. was passed on 22nd December 1982. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and that since compensation for the subject lands has not been paid, nor physical possession taken, the acquisition proceedings stand lapsed.

3. In the counter-affidavit filed by the LAC, it is stated that the 'Agreement to Sell' entered into with his father and relied upon by the Petitioner to claim any rights with respect to the subject land is infructuous and cannot be enforced, and that the father of the Petitioner was never the recorded owner of the land. It is further submitted that physical possession of the subject land was duly taken on 3rd March 1983 and handed over to the DDA on the spot. Compensation of Rs.84416/- was also sent to the Reference Court on 23rd July 1985 as "there was an apportionment dispute and the recorded owner was one Ram Mehar".

4. In the counter-affidavit filed by the DDA, it is submitted that the Petitioner is claiming to be the owner of land bearing Khasra Nos. 422 and 423 admeasuring 3 bigha 11 biswas in village MandawaliFazalpur, however as per the land record register, the land bearing Khasra Nos. 422/1 (0-14), 422/2 (0-10) and 423/1 (4-9) was acquired by Award No.2179 for planned development of Delhi and physical possession of this land was handed over to the DDA by the LAC/L&B Department on 3rd December 1968. A copy

of the possession proceedings have been enclosed with the affidavit.

5. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC or the DDA to contest the assertions regarding taking over of the possession and compensation with respect to the subject land. Be that as it may, the assertion by the Petitioner that he continued to remain in possession of the land in question gives rise to a disputed question of facts. The fact remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. On the aspect of laches, in *Mahavir v. Union of India (2018) 3 SCC 588* the Supreme Court has 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.”

7. The above observations have been reiterated in the judgment of the three

412 where it was observed as under:-

“128. In our considered opinion section 24 cannot be used to revive the dead or stale claims and the matters, which have been contested up to this Court or even in the High Court having lost the cases or where reference has been sought for enhancement of the compensation. Compensation obtained and still it is urged that physical possession has not been taken from them, such claims cannot be entertained under the guise of section 24(2). We have come across the cases in which findings have been recorded that by drawing a Panchnama, possession has been taken, now again under Section 24(2) it is asserted again that physical possession is still with them. Such claims cannot be entertained in view of the previous decisions in which such plea ought to have been raised and such decisions would operate as *res judicata* or constructive *res judicata*. As either the plea raised is negated or such plea ought to have been raised or was not raised in the previous round of litigation. Section 24 of the Act of 2013 does not supersede or annul the court's decision and the provisions cannot be misused to reassert such claims once over again. Once Panchnama has been drawn and by way of drawing the Panchnama physical possession has been taken, the case cannot be reopened under the guise of section 24 of Act of 2013.

129. Section 24 is not intended to come to the aid of those who first deliberately refuse to accept the compensation, and then indulge in ill-advised litigation, and often ill-motivated dilatory tactics, for decades together. On the contrary, the section is intended to help those who have not been offered or paid the compensation despite it being the legal obligation of the acquiring body so to do, and/or who have been illegally deprived of their possession for five years or more; in both the scenarios, fault/cause not being attributable to the landowners/claimants.

130. We are of the view that stale or dead claims cannot be the subject-matter of judicial probing under section 24 of the Act of 2013. The provisions of section 24 do not invalidate those judgment/orders of the courts where under rights/claims have been lost/negated, neither do they revive those rights which have come barred, either due to inaction or otherwise by operation of law. Fraudulent and stale claims are not at

all to be raised under the guise of section 24. Misuse of provisions of section 24(2) cannot be permitted. Protection by the courts in cases of such blatant misuse of the provisions of law could never have been the intention behind enacting the provisions of section 24 (2) of the 2013 Act; and, by the decision laid down in Pune Municipal Corporation (supra), and this Court never, even for a moment, intended that such cases would be received or entertained by the courts.”

8. The above observations have been followed by this Court in several orders including the order dated 10th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

9. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs. The pending application is dismissed.

S.MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 05, 2019

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