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

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+ **W.P.(C) 121/2016 & CM 14656/2018**

PRADEEP KUMAR AIREN & ORS.

..... Petitioners

Through: Mr Adarsh Kumar Gupta, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.
Ms Mrinalini Sen, Standing Counsel
for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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28.01.2019

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

- “a) Issue appropriate Writ Order or directions declaring the Land Acquisition proceedings initiated by Notification No. F-15(111)/59-LSG dated 13.11.1959 under section 4 and notification no. F-15(255)/61-LSG dated 23.04.1962 Under Section 6. of the Land Acquisition proceedings and Award No. 1397(A) dated 24.09.1962 and other consequential -proceedings qua the petitioners' land falls under Khasra Numbers 316 (6-15), 317(7-8), 317(6-2), 318(3-19), 319(0-16), 320 (7-12), 326(7-8), 585/327 (2-0), 587/328/2(1-3), 584 /327 (0-12), situated in the revenue Estate of Village Chowkri Mubarkabad Delhi as having becomee lapsed under Section 24(2)of the Land Acquisition Act, 2013;

- b) Declare that the land of the petitioners as mentioned above is not required for any development purposes;
- c) Direct the respondents to rectify the revenue record of the land in question belongs to the petitioners as previously it was in the name of the petitioners;
- d) Direct the respondents not to interfere with the possession of the petitioners of their land falls Khasra Nos. 316 (6-15), 317(7-8), 317(6-2), 318(3-19), 319 (0-16), 320(7-12) 326(7-8),585/327(2-0),587/328/2 (1-3), 584 /327 (0-12), situated in the revenue Estate of Village Chowkri Mubarkabad Delhi;
- e) Pass any such further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.”

2. According to the narration in the petition, the notification under Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued way back on 13th November, 1966 followed by declaration under Section 6 of LAA on 23rd April, 1962. The impugned Award No.1397 (A) was passed by the Land Acquisition Collector (LAC) on 24th September, 1962. It is also not in dispute as stated by the Petitioners themselves that on 20th March, 1974, pursuant to Section 22 (1) of the DDA Act, 1957, the land in question was placed for disposal of the DDA for the purposes of development.

3. The next event stated in the petition is about the passing of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into effect from 1st September, 2014. According to the Petitioners, neither has the possession been taken nor the compensation paid.

4. In the counter affidavit filed on behalf of the DDA, a preliminary objection is taken as to the petition being barred by laches. It is also stated that no documents of title or extracts of the revenue records have been produced by the Petitioners to prove their right, title or ownership *qua* the land in question. Further, it is stated that the physical possession was handed over by the LAC to the DDA on 6th November, 1962 and copy of the possession proceedings dated 10th January, 1963 have been enclosed with the counter affidavit.

5. A rejoinder has been filed by the Petitioners to the said counter affidavit stating therein that the Petitioners had obtained an online status report and possession of the land could not be taken due to “built-up area”. A separate counter affidavit has been filed by the LAC wherein again, it is stated that the actual physical possession of the land in question was taken after the award came to be passed and handed over to the DDA. As regards the status of payment of compensation, it is stated that it could not be ascertained, in the absence of Statement-A, which the LAC tried its level best to search out, but was unsuccessful.

6. This Court finds that in the entire petition there is no explanation by the Petitioners for not challenging the land acquisition proceedings till the filing of the present petition seeking a declaration of deemed lapsing of the land acquisition proceedings. In other words, for over five decades, despite being aware of the Award having been passed in respect of the land in question, the Petitioners never chose to come forward, to either complain about the taking of possession or the payment of compensation.

7. 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.”

8. This has been reiterated by the subsequent judgment of the three Judge Bench in *Indore Development Authority vs. Shailendra (2018) 3 SCC 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 which of 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 negatived 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/negatived, 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.”

9. For the aforementioned reasons, the writ petition is dismissed on the ground of laches. The pending application is also dismissed. The interim order dated 22nd January 2018 hereby stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 28, 2019

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