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

+ **W.P.(C) 795/2019 & CM No. 3532/019**

SARVESH TYAGI

..... Petitioner

Through: Mr. Sumit Sarna, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Pawan Mathur, Standing counsel
for DDA.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for
LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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07.02.2019

1. The prayer in the present petition reads as under:

“issue a writ of certiorari or any other appropriate writ, order or direction, declaring that the land acquisition proceeding initiated by the notification dated 4.9.1967 under Section 4 and declaration dated 2.9.1970 under Section 6 of Land Acquisition Act qua the petitioner land bearing Khasra No. 30/2 of Village Wazirabad, Delhi resulting in Award No. 240/1986-87 as having lapsed by virtue of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. Earlier on 10th December 2018, the Court had permitted the Petitioner to withdraw W.P. (C) No. 9419 of 2018 which prayed for an identical relief

with liberty to file a fresh petition properly explaining the delay in approaching the Court.

3. However, even in the present petition, the explanation offered for the delay is not satisfactory. All that is said in para 3 is as under:-

“3. That Late Sh. Anoop Singh Tyagi expired on 20.12.1999. At the time of death, Shri Anoop Singh Tyagi was in possession of above land which was later on recorded in the name of Petitioner and his brothers.

Shri Anoop Singh Tyagi was not aware about the acquisition nor filed any petition against the same. Shri Anoop Singh Tyagi also did not receive any compensation and was also not informed/intimated about any compensation being deposited before Hon'ble Court by Respondents.

Petitioner and his brothers were also not aware about the acquisition till August, 2016 when they wanted to sell above land. Petitioner came to now that above land was acquired and therefore cannot be sold.”

4. Considering that the Award in the present case was passed three decades ago, and the Petitioner himself has enclosed copy of the possession proceedings of 22nd September 1997, it was incumbent for the Petitioner to properly explain the delay in approaching the Court.

5. It is not possible for the Court to repeatedly permit the Petitioner to withdraw the petition with liberty to file a petition offering a better explanation for the delay in approaching the Court for relief. The following observations of the Supreme Court in **Indore Development Authority v. Shailendra (2018) 3 SCC 412**, would apply in the present case:

“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/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.”

6. In that view of the matter, the petition is dismissed on the ground of delay and laches. The pending application is also dismissed.

S.MURALIDHAR, J

SANJEEV NARULA, J

FEBRUARY 07, 2019

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