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

+ **W.P.(C) 581/2017**

RAM PRAKASH & ORS.

..... Petitioners

Through: Mr. Anuroop P.S., Advocate

versus

UNION OF INDIA, THROUGH LAC & & ANR.

..... Respondents

Through: Mr. Arun Birbal with Mr. Sanjay Singh for
DDA
Mr. Yeeshu Jain, Standing Counsel and Ms.
Jyoti Tyagi for L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE ASHA MENON

ORDER
30.05.2019

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1. The prayer in the petition reads as under:

“It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to issue a writ / order./ direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land comprised in Khasra No. 29//8/1 (4-02), 24/2 (2-15), 17/1 (4.00), 23 (6-10), And 32/3' (6-01) Total Measuring 23 .Bighas 08 Biswas situated in the revenue estate of village Saidabad, Delhi, acquired vide Award No. 29/76-77 (Supplementary) pronounced on 05.09.1986. and further to issue appropriate writ, order or direction declaring the acquisition proceedings having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.”

2. The narration in the petition reveals that notification under Section 4 of the Land

Acquisition Act, 1894 ('LAA') was issued on 6th April 1964, followed by declaration under Section 6 of the LAA on 7th December 1966. The impugned Award No. 29/1976-77(Suppl) was passed on 5th September 1986. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. It is stated in the petition that "the petitioners are co-sharers of the land comprised in Khasra No. 29//8/1 (4-02), 24/2 (2-15), 17/1 (4.00), 23 (6-10), And 32/3' (6-01) Total Measuring 23 .Bighas 08 Biswas situated in the revenue estate of village Saidabad, Delhi." It is stated that even though the Award was made in 1976-77, the possession of the subject land was not taken nor was the compensation paid to the Petitioners.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No. 29//8/1 (4-02), 24/2 (2-15), 17/1 (4.00), 23 (6-10) was taken and handed over to the DDA on 9th January 1998. On the aspect of compensation it is stated that:

"The records reflect that the Badlu 1/6th share and Mamraj and Mawasi had ½ share each in 5/6th share were Bhoomidars, out of which the compensation to the share of Mamraj was duly paid to his sons on 22.5.2007 and rest of the compensation appears to have been not paid as the bhoomidar/ interested persons did not turn up to claim the compensation"

5. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the subject land was acquired by the LAC on 9th January 1998 and handed over to the DDA.

6. Pursuant to the orders of this Court a status report dated 9th May 2019 has been filed by the DDA which states that physical possession of the land in question was taken and handed over by the LAC to the DDA on 9th January 1998 itself. DDA in turn transferred the subject land to JE/SED-III/DDA for construction of freight complex on 19th June 1998. It is also stated that DDA has built a boundary wall around the land for protection from encroachment. The Report states that the Petitioners appear to have subsequently started using a portion of the subject for agriculture in an unauthorized manner.

7. In the circumstances, the assertion by the Petitioners that they continue to remain in lawful possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. 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.”

9. The above decision was re-affirmed by the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. 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.

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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 become 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.”

10. It may be noted here that the reference made by a Constitution Bench in *Indore Development Authority v. Shyam Verma (2018) 4 SCC 405* regarding the correctness of the aforesaid decision in *Indore Development Authority v. Shailendra (supra)* is only as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (supra)* regarding the tendering of compensation, and on certain other issues but not on the question of petitions seeking declaration under Section 24 (2) of the 2013 Act being barred by laches. This legal position was explained by this Court recently in *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

11. 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.

12. The interim order passed by this court on 23rd January 2017 which stood confirmed on 11th May 2018 stands vacated.

S. MURALIDHAR, J.

ASHA MENON, J.

MAY 30, 2019/mw