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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 410/2016**

RAJAN SHARMA & ORS.

.... Petitioners

Through: Mr. Anuroop P.S., Advocate

versus

UNION OF INDIA & ANR.

.... Respondents

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

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
24.07.2019

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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 No. 246/1(1-07), and 247/1(1-03), total measuring 2 Bighas 10 Biswas situated in the revenue estate of Village Pul Pehladpur, New Delhi, acquired vide Award. 101/1980-81 of the petitioners 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 no compensation in respect of acquired land has been paid to the petitioners and their predecessors.

OR

Further to pass appropriate writ, order or direction, directing the respondents to return/handover the actual physical possession of the land of the petitioner to the petitioners.

OR

In the alternative direct the respondents No.1 to acquire afresh under the Right to Fair Compensation in Land Acquisition of Rehabilitation Act, 2013 and further to pay the compensation under the aforesaid Act, Award cost of proceedings to the humble petitioner.”

2. The background facts are that the land in question i.e. 2 *Bighas* 10 *Biswas* in Khasra No. 246/1(1-07), and 247/1(1-03) situated in the Revenue Estate of Village Pul Pehladpur (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 10th November, 1960 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 dated 6th January, 1969. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 101/80-81 on 31st January, 1981.

3. As far as the Petitioners are concerned, it is stated in the petition that Petitioners’ predecessor one Shri Hari Ram was the owner/*Bhumidar* of the subject land. It is averred that the subject land has devolved to the Petitioners. A translated copy of the *Khatauni* for the year 1964-65 has been annexed with the petition.

4. It is stated in the petition that actual physical possession of the subject land was taken on 3rd April, 1981. It is however averred that compensation for acquisition of the subject land was not paid to either the Petitioners or

their predecessor-in-interest. Thereafter, the petition straightaway refers to the passage of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioners' entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act on the ground that no compensation has been paid to the Petitioners.

5. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that possession was duly taken on 3rd April, 1981 and handed over to the DDA. In respect of compensation, it is averred that compensation was released to Shri Hari Ram on 20th April, 1981. In the counter affidavit of the DDA, it is averred that the question of *Bhumidari* rights having devolved to the Petitioners does not arise in light of an award in respect of the subject land. It is further averred that there is no mention of the individual shares of each of the Petitioners in the subject land. It is averred that Petitioners have not produced any document to demonstrate their right, title or interest in the subject land. It is also averred that physical possession of the subject land was taken and handed over to the DDA on 3rd April, 1981. A copy of the possession report has been annexed with the petition. It is stated that possession of Khasra No. 246/1 (1-07) has been further transferred to Indian Oil Corporation Petrol Pump on 8th September, 1987, while the possession of Khasra No. 247/2 (1-03) has been transferred to the Engineering Wing i.e. JE SED-8 on 23rd February, 1982 for the construction of MIG Flats. It is also stated that since the subject land has been transferred to the Indian Oil Corporation and that the said body would, therefore, be a necessary party. As regards compensation, it is

stated that the DDA has paid compensation of Rs.2,20,007/- to the LAC/ L&B Department with respect to Award No. 10/ 80-81 by way of cheque No. 907975 dated 7th January, 1981.

6. A rejoinder has been filed on behalf of the Petitioner to the counter affidavit of the LAC, where the averments of the LAC have been denied and the contents of the writ petition reiterated.

7. The assertion of the Petitioners that compensation in respect of the subject land remains unpaid gives rise to a disputed question of fact and cannot be examined in the present petition. The fact further remains that the Petitioners have not advanced any explanation for the inordinate delay in approaching the Court for relief.

8. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* a three Judge Bench of the Supreme Court of India observed as under:-

“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 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.”

9. 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 (2014) 3 SCC 183* regarding the tendering of compensation, and 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 its decision in *Mool Chand v. Union of India (2019)173 DRJ 595 (DB)*.

10. For the aforementioned reasons, the writ petition is dismissed.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 24, 2019

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