

\$~42

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

+ **W.P.(C) 940/2018**

RAM LAL SHANI & ORS.

..... Petitioners

Through: Mr. Aman Nandrajog, Mr. Arjun Nanda,
Ms. Arzoo Aneja, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sidharth Bandal and Ms. Anju
Gupta for UOI.
Mr. Bhuvnesh Safia and Mr.
Bhuvaneshwar Singh Rathore for DDA
Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi for L&B/LAC
Ms. Anju Gupta & Mr. Roshan Lal Goel,
Advocates

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
21.05.2019

%

1. The prayers in the petition read as under:

“a) An appropriate writ, order, or direction declaring that the land acquisition proceedings in respect of the subject land have lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and

b) An appropriate Writ, order, or directions quashing the

Notification No.F-9 (16)/80-L85B dated 25.11.1980 issued under Section 4 of the Land Acquisition Act, 1894, and Notification No.F-9(26)/85-L85B dated 07.06.85 issued under Section 6 of the Land Acquisition Act, 1894;

c) An appropriate Writ, order, or directions quashing the Award No. 15/87-88 dated 05.06.1987 published under section 11 of the Land Acquisition Act, 1894, in respect of the land comprised in Khasra Nos. 1207 Min (1-8), 1208 Min (3-7), 1210 Min (0-4), 1211 Min (0-4), 1212/1 (0-8), 1212/2 (4-8) and 1213 Min (2-1), admeasuring a total of 12 Bighas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi; and

d) An appropriate Writ, order, or directions restraining the Respondents from taking physical possession of the land of the Petitioners in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 7th June 1985. The impugned Award No. 15/87-88 was passed on 5th June 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. It is stated that the Petitioners executed an irrevocable general power of attorney (GPA) dated 13th December 1994 authorising Shri D.S. Sachdev to deal with the subject lands. Mr. D.S. Sachdev executed SPA dated 15th March 2000 in favour of Mr. Roop Madan. Subsequently, Mr. Roop Madan executed a

GPA dated 9th May 2005 in favour of Mr. Lalit Kapoor with respect to the subject land.

4. It is claimed in the petition that the Petitioners are owners of the land comprised in Khasra Nos. 1207 Min (1-8), 1208 Min (3-7), 1210 Min (0-4), 1211 Min (0-4), 1212/1 (0-8), 1212/2 (4-8) and 1213 Min (2-1), admeasuring a total of 12 Bighas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi. The petition, however, has been filed by a GPA holder. It is stated in the petition that the acquisition proceedings were earlier challenged before this Court in ***Balak Ram Gupta v. UOI 37(1989) DLT 150*** whereby they were quashed. Subsequently, in ***Balbir Singh v. UOI 39(1989) DLT 233*** the LAC was directed to return the lands which had been acquired. The DDA and the government filed two separate SLPs against the said decision which came to be dismissed by the Supreme Court in ***DDA v. Sudan Singh (1997) 5 SCC 431***. Subsequent to the aforementioned decisions, the Supreme Court in ***Abhey Ram v. UOI (1997) 5 SCC 421*** clarified that notifications under Section 4 and 6 of the LAA had not been quashed in *rem* and relief would only be given to the persons who had approached the courts for redressal of their grievances.

5. The Petitioners have relied upon the decision of ***DDA v. Manav Dharam Trust (2017) 6 SCC 751*** to contend that the GPA holder of the Petitioners has a right to file a writ petition seeking lapsing of acquisition proceedings and that GPA is a valid document which enables a person to file on behalf of the actual

owner. The Petitioners have also relied upon ***Pune Municipal Corporation v. Harakchand Misirimal Solanki (2014) 3 SCC 183*** to contend that where possession of land has not been taken and compensation has not been paid, the acquisition proceedings would be deemed to have lapsed under Section 24(2) of the 2013 Act.

6. In the counter affidavit filed on behalf of the DDA, it is stated that the possession of Khasra No. 1207(4-16), 1208(4-16), 1210(4-11), 1212(4-16), 1213 (4-16) was not handed over by the LAC to the DDA. It is further stated that GPA is not a valid document of that can confer any, right, title or interest on any person. Further in view of Section 4 of The Delhi Lands (Restrictions on Transfer) Act 1972, the three GPAs executed after the Award was passed have no legal sanctity. The present case is, therefore, distinguishable from that in ***Manav Dharam Trust (supra)***. As regards possession it is stated that “the physical possession of the acquired land has not been handed over by the land acquisition collector/Land & Building Department of GNCTD to the DDA.”

7. On the aspect of compensation it is stated that an amount of Rs. 100 Crores was remitted to the LAC dept. on account of compensation of 13 South Delhi Villages. It is further submitted that the judgment in ***Pune Municipal Corporation & Another v. Harakchand Misirimal Solanki (2014) 3 SCC 183*** has been declared to be *per incuriam* by the three Judge Bench of the Supreme Court in ***Indore Development Authority v. Shailendra (2018) 3 SCC 412***.

8. No rejoinder has been filed by the Petitioners to the counter affidavit of the DDA.

9. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

10. Moreover, the Petitioners are claiming through GPA which is not a valid document conferring any title or interest. . In other words, all of these documents have been executed subsequent to the passing of the award dated 10th January 2006 and these have no legal sanctity whatsoever. They are also in the teeth of the Delhi Lands (Restrictions on Transfer) Act, 1972 and, therefore, confer no valid legal title or interest in respect of the lands in question.

10. In all the judgments relied upon by the Petitioners with respect to the same acquisition proceedings, it is not shown anywhere that Petitioners were a party to any of the proceedings and therefore, the decision of *Abhey Ram (supra)* will not apply.

11. 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.”

12. The above decision has been reaffirmed by the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra* (*supra*) where it was 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.”

13. The above observations have been followed by this Court in several orders including in *Mool Chand v. Union of India 2019 (173) DRJ 595[DB]* and similar petitions have been dismissed on the ground of laches.

14. 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.

15. The interim order passed by this court on 2nd February 2018 which stood confirmed on 12th April 2018 stands vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 21, 2019
rd