

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3927/2019

versus

ORDER
15.04.2019

“a) issue an appropriate writ, order or directions declaring the entire acquisition proceedings to have been lapsed in respect of the land of petitioners ad-measuring 32 bighas and 7 biswas comprised in Khasra Nos. 11/2/1 (1-13), 20 (4-08), 6/1 (0-01), 7/1 (0-08), 9/2 (2-03), 12 (3-19), 13/1 (3-04), 13/2 (1-12), 14/1 (2-19), 14/2 (0-11), 14/3 (1-06), 15/1 (4-11), 16 (3-04), 17/1 (1-06), 17/2 (1-02) situated in the Revenue estate of Village Jhuljhuli, Delhi under Section 24(2) of The Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Re-settlement Act, 2013 as till date the physical possession of the land had not been taken and no compensation has been paid though the award was passed in the year 1986; and

b) issue an appropriate writ, order or direction in nature of mandamus directing the Respondents to release the land of the petitioners; and

c) pass such and further orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

3. The narration in the petition reveals that notification under Sections 4, 6 and 17 of the Land Acquisition Act, 1894 (‘LAA’) for the acquisition of the land in question was issued on 13th January 1981. The impugned Award No. 61/86-87 was passed on 19th September 1986.

4. The Petitioners state that their ancestors were the recorded owners and the Petitioners are now owners of the land admeasuring 145 bighas, 14 biswas in the above location. It is stated that on 29th April 1987, the office of the Superintendent Engineer, Najafagrh Drain Circle requested the Land Acquisition Collector (LAC) to de-notify the land acquired under Award No. 61/86-87 for the reason that the land acquired was on the left side of the bank of Dhansa Drain Channel whereas the Department was constructing the drainage line on the right-side of the Dhansa channel and no land of Village-Jhuljhuli was involved. The Petitioners are also made a representation for the de-notification of the said lands.

5. It is submitted that the lands were not de-notified. The Petitioners state that they are still in possession and that the Respondents never took physical possession of the said lands. The Petitioners also claim that no compensation has been paid to them. Therefore, they claim the relief of a declaration of deemed lapsing of land acquisition proceedings under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 ('the 2013 Act').

6. The Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief. 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.”

7. The above decision has been reaffirmed 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:

“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.”

8. 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***.

9. For the aforementioned reasons, the writ petition is dismissed on the ground of laches, but in the circumstances, with no orders as to costs. The pending application is also dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 15, 2019
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