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

+ **W.P.(C) 1229/2018**

CHIDDI NAGAR AND ORS.

..... Petitioners

Through: Mr. Manish Nagar, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Neeraj, Advocate for UOI/R1.
Mr. Karan Sharma, Advocate for
DDA/R2.
Ms. Ruchika Rathi with Ms. Saumya
Dua, Advocates for LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER
22.04.2019

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1. The prayers in the petition read as under:

“a. Issue writ petition under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus or any other appropriate Writ, Order or Direction declaring that the acquisition proceedings culminating into award No. 1934C/Supplementary /80-81 dated 06.02.1981 pertaining to land falling under Khasra Nos.72/2, 73/1 and 74/2 in village Molarband has lapsed in view of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and thereby directing the respondents either to release the subject land or to make the payment of compensation with rehabilitation as per the provisions of the 2013 Act Writ of Mandamus or any other appropriate Writ, order or direction directing the Respondents

to pay compensation with rehabilitation to the petitioner according to the provisions enshrined under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and/or

b. In alternative direct Respondents to release the subject land to the Petitioner as per the mandate of the provisions enshrined under the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013”

2. A total of 19 Petitioners, claiming to be the residents of village Molarband, Badarpur, Delhi have filed the present petition seeking the above reliefs. They state that they are the successors-in-interest of the recorded owner/bhumidar late Sh. Lakha Ram. Petitioners do not, however, explain how they have acquired title to the land in question. There is no explanation whatsoever in the petition for the inordinate delay in approaching the Court for relief. It is only stated that a Bench of this Court had passed orders in WP (C) 6763 of 2014 (*Santosh Kumar v. Union of India*), where in respect of the very same Award a declaration was issued by this Court under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') by an order dated 9th November 2016.

3. A counter-affidavit has been filed by the LAC in which it is pointed out that the compensation in respect of the aforementioned land was deposited with the Revenue Department ('RD') on 28th March 1981. It is stated that physical possession of the land was taken on 10th April 1994. The Petitioners were stated to be part of the land acquisition proceedings and despite that

they had 'never approached' the office of the LAC for claiming compensation.

4. No rejoinder has been filed to the counter-affidavit filed by the LAC. With there being no explanation offered for the inordinate delay in approaching the Court for relief, the prayers of the Petitioners ought to be rejected on the ground of laches itself. In this context, the following observations 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.

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 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.”

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

6. Even on merits the Court is not satisfied that the Petitioners are entitled to the reliefs claimed for, particularly since the facts concerning possession have not been controverted by the Petitioners.

7. Consequently, the writ petition is dismissed both on the ground of laches as well as on merits.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 22, 2019
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