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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1149/2018**

SH. MAHABIR PARSAD @ MAHABIR GOYAL Petitioner

Through: Mr.Prashant Bhardwaj, Advocate for
Mr.Arvind K.Gupta, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.V.Balaji with Ms.Sripradha
Krishnan, Advocates for LAC/L&B.
Mr.Madhav Dhingra, Advocate for
Mr.Joginder Sukhija, Advocate for
DDA.

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

ORDER

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22.04.2019

1. The prayers in the petition read as under:

“i) Issue a writ of mandamus or any other appropriate writ, order or direction thereby, inter alia, declaring that acquisition proceedings in respect of the land belonging to the petitioner admeasuring 5 bigha 17 biswas; falling in Khasra No. 234 (4-16), 235 (4-16), 236 (4-16), 272 (4-16), 290 (4-4), 291/2 (1-14) and 4 Bigha 2 Biswa in Khasra No. 182 (3-14), 183 (4-9) and 243 (4-12), situated in village Kotia Maigrain, Delhi, have been lapsed on the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

ii) issue a writ or any other appropriate writ, order or direction thereby direct the respondents not to interfere in the peaceful possession of the petitioner qua the land subject matter of the present writ petition;”

2. The narration in the petition reveals that a notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) in respect of the acquisition of the land in question was issued on 6th April 1964, followed by declaration under

Section 6 of the LAA on 7th December 1966. Thereafter, impugned Award No.205/86-87 was passed by the Land Acquisition Collector ('LAC') on 19th September 1986. The acquisition of the land is for the purpose of the Sarita Vihar Residential Scheme.

3. There is no explanation whatsoever in the petition for the inordinate delay in approaching the Court for relief except stating that after the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'), the cause of action arose for the Petitioner to claim relief under Section 24(2) of the Act since the possession of the land in question, although had been taken over, no compensation had been paid to the Petitioner or his predecessor-in-interest.

4. Notice of the petition was issued on 7th February 2018. In the short counter-affidavit filed on behalf of the DDA it has pointed out that possession of land measuring 276 Bigha and 05 Biswa was taken over on 12th December 1996; 201 Bigha and 1 Biswa was taken over on 5th March 1997, 4th December 1996 and 17th July 1997. The land was then placed for the disposal of the DDA. On its part, the DDA deposited with the Land and Building Department Rs.2 crores on 27th January 1996.

5. No rejoinder has been filed to the counter-affidavit of the DDA. There is no explanation whatsoever in the entire petition for the inordinate delay in approaching the Court for limited relief for compensation. Admittedly, the possession has been taken over from the Petitioner way back in 1996.

6. Counsel for the Petitioner has relied on the decision in ***DDA v. Sukhbir Singh (2016) 16 SCC 285***; however, the said decision did not specifically deal with the issue of relief under Section 24(2) being barred by delay and laches.

7. This aspect has been dealt with extensively by 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.”

8. 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.

9. For the aforementioned reasons, the writ petition is dismissed on the ground of laches.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 22, 2019/ tr