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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1570/2018

PRASHANT GUPTA

.... Petitioner

Through: Mr. Parveen Kumar
Aggarwal and Mr. Abhishek
Grover, Advocates.

Versus

UNION OF INDIA & ORS.

.... Respondents

Through: Ms. Arti Bansal,
Advocate for DDA.
Mr.Sachin Nawani for LAC/L&B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

21.08.2019

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1. The prayers in the present petition read as under:

“a. issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to the said land of the Petitioner having lapsed and further quashing the impugned Notification No. F. 4(98)/64 – L&H dated 23.01.1965 issued under Section 4, Notification 4(98)/6 – L&H dated 26.12.1968 (published on 16.01.1969) issued under Section 6 and the Award No. 146/81-82 dated 30.03.1981 with respect of 1/6th share in 30 *Bighas* 18 *Biswas*

of land (5 *Bighas* 3 *Biswas*) comprised in Khasra Nos. 1372/2 (1-4), 1376/3 (1-5), 1377 (5-12), 1378 (0-10), 1379 (4-1), 1380 (4-16), 1381/1 (2-16), 1522 (4-16), 1523/1 (3-14) & 1732/1 (2-4), situated in the Revenue Estate of Village Malikpur Kohi *alias* Rangpuri, New Delhi; and

b. issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 1/6th share in 30 *Bighas* 18 *Biswas* of land (5 *Bighas* 3 *Biswas*) comprised in Khasra Nos. 1372/2 (1-4), 1376/3 (1-5), 1377 (5-12), 1378 (0-10), 1379 (4-1), 1380 (4-16), 1381/1 (2-16), 1522 (4-16), 1523/1 (3-14) & 1732/1 (2-4), situated in the Revenue Estate of Village Malikpur Kohi *alias* Rangpuri, Tehsil Mehrauli, NCT of Delhi”

2. The background facts are that the land in question i.e. 1372/2 (1-4), 1376/3 (1-5), 1377 (5-12), 1378 (0-10), 1379 (4-1), 1380 (4-16), 1381/1 (2-16), 1522 (4-16), 1523/1 (3-14) & 1732/1 (2-4) (‘subject land’) admeasuring 30 *Bighas* 18 *Biswas* situated in the Revenue Estate of Village Malikpur Kohi *alias* Rangpuri, New Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd January, 1965 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 26th December, 1968. Thereafter, the Land Acquisition Collector (‘LAC’) made an Award No. 146 (80-81) (‘the Award’) dated 30th March, 1981 under Section 11 of the LAA.

3. The Petitioner claims that he became the owner of the subject land upon the death of his father and predecessor-in-interest on 17th May, 2015. The Petitioner states that he inherited 1/6th of the subject land from his father and predecessor-in-interest. The Petitioner claims that physical possession of the subject land remains with him. His further case is that no compensation has been paid in respect to the subject land to either him or his predecessor-in-interest.

4. It is submitted by the Petitioner that the impugned acquisition proceedings are also the subject of two writ petitions, W.P.(C) 2908/2015 (*Krishna Khandelwal v. Union of India and Ors.*) and W.P.(C) 7410/2015 (*Rajkumari Khandelwal & Anr. v. Union of India and Ors.*), filed by other claimants-in-interest of the subject land. It is submitted that an interim order dated 24th March, 2015 in the former pending writ petition requires parties therein “to maintain status quo with regard to the nature, title and possession of this subject land.” It is further submitted that the latter writ petition was decided in the petitioners’ therein favour by way of an order dated 6th February, 2017.

5. Counter-affidavits have been filed on behalf of the DDA, and the LAC and the Land and Building Department (‘L&B). In the counter-affidavit of the DDA, it is averred that the writ petition is liable to be dismissed on the ground of delay and laches. It is further averred that the Petitioner has not placed any document on record to claim his right, title, and interest over the subject land. It is stated by the DDA that possession of the subject land was taken over and

placed at its disposal by way of *Kabza Karvahi* dated 31st March, 1981. It is further stated that “as per the record of the answering respondent towards compensation against Award No. 146/80-81 amounting to Rs.21,47,47,180 was announced against the surplus amount with LAC.”

6. In the counter-affidavit of the LAC and the L&B, the averments of the DDA have been reiterated. In addition, it is stated that compensation of a sum of Rs.1,14,971/- in respect of the subject land was initially deposited in the Revenue Deposit (‘RD’) and was later sent to the court of the Additional District Judge (‘ADJ’) by way of an Award Refund Voucher No. 672 dated 5th October, 1983.

7. Averments in respect of the possession of the subject land and the payment of compensation in respect thereof raise disputed questions of fact which cannot be dealt with before this Court. Be that as it may, the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for relief. 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 come 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 (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)*.

9. The orders of this Court in *Krishna Khandelwal v. Union of India (supra)* and *Rajkumari Khandelwal v. Union of India (supra)* were passed at a time when the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra (supra)* had not been delivered. Consequently, those orders are of no assistance to the Petitioner.

10. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 19th February, 2018 as confirmed on 2nd May, 2018 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 21, 2019

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