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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 1968/2016

AMIT BHIDURI

..... Petitioner

Through: Mr MP Bhargava, Advocate.

versus

LAND ACQUISITION COLLECTOR (SOUTH EAST)

& ANR.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.

Mr Pawan Mathur, Standing
Counsel for Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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19.02.2019

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

“It is, therefore, respectfully prayed that this Hon Court may be pleased to issue a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings with respect to the land comprised in Khasra Number. 29/9 (4-16) situated in the revenue estate of village Saidabad, acquired vide Award No.29/76-77 pronounced on 5.9.1986 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as despite award, neither possession of the lands of the petitioners was taken nor any compensation with respect to lands have been paid to the petitioners or their predecessor-in-interest, till date.

Award cost of proceedings to the humble petitioner.

The Hon Court may pass such other and further order as it

deems fit and proper under the facts and circumstances of the case.”

2. According to the narration in the petition, despite the fact that two other persons were shown as the *bhumidars* of the said land from 1954 onwards, the grandfather of the present Petitioner continued in physical, cultivatory possession of the land. It is seen that notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued on 6th April 1964 followed by declaration under Section 6 LAA on 7th December 1966. The impugned Award No.29/76-77 was passed on 5th September 1986. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and that since possession of the subject land was taken but no compensation was tendered, the acquisition proceedings stand lapsed.

3. In the counter-affidavit filed by the LAC, it is submitted that the present petition is liable to be dismissed as the Petitioner is not the recorded owner of the subject land and further has produced no documents of ownership or title deed. It is submitted that subsequent to the impugned Award being passed, actual vacant physical possession of the land was falling in Khasra No.29/9 (4-16) was taken on 22nd September 1986 and handed over to the DDA on the spot by preparing possession proceedings. As regards compensation, it is further stated that “the Statement-A reflects that compensation was shown as disputed and the same was sent to RD.”

4. No rejoinder has been filed to the counter affidavit of the LAC to contest the assertions regarding taking over of the possession. In any event, the assertions made by the Petitioner regarding ownership of the land in

question as well as compensation in respect of the said land give rise to disputed questions of fact, which cannot be examined in the present petition. The fact also remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for relief.

5. 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.”

6. The above decision has been re-affirmed by the judgment of a three Judge Bench 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/negatived, 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.”

7. The above decision has been followed by this Court in several orders including the order dated 17th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

8. 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.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 19, 2019/tr