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

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+ **W.P.(C) 1600/2016**

NIRANJAN SINGH & ORS. Petitioners

Through: Mr Nitin Kumar, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr Bhagvan Swarup Shukla, CGSC
with Mr Kamaldeep, Advocates for
UOI.

Mr Sidharth Panda, Advocate for
LAC/L&B.

Mr MK Singh, Advocate for
Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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29.01.2019

1. The prayer in the present petition reads as under:

“It is therefore, most respectfully prayed that a Writ/Order/direction in the nature of MANDAMUS OR any other appropriate writ may be passed thereby declaring the land comprised in Khasra No.285(0-07) and Khasra No.28(5-07) situated within the revenue estate of Village Said-ul-Ajaib, Delhi as free from acquisition and the Award in respect thereof bearing No.148 of 86-87 may be deemed to have lapsed in view of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayed accordingly.”

2. According to the narration in the petition, subsequent to the notification and declaration issued under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) and Section 6 LAA respectively, the impugned Award No.148 was

passed on 19th September 1986. It is has also been stated that the remaining area of Khasra No.285 was however acquired by another Award No.13/1989 which was challenged separately and the acquisition proceedings in respect thereof quashed. According the Petitioners, since possession was not taken and the compensation amount was not paid, there was no occasion for the Petitioners to seek any relief till the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the '2013 Act').

3. In the counter affidavit filed on behalf of the LAC, it is stated that in pursuance of Award No.148/86-87 dated 19th September 1986, possession of the subject land was taken over and handed to the beneficiary department on 23rd September 1986. The record of the deposit of compensation in the RD along with the names of the recorded owners and the respective amounts for relevant Khasra numbers has been submitted in a tabular format in para 7. It is further stated that in pursuance of Award No.13/87-88 dated 20th May 1987, actual possession of the land was taken over and handed over to the beneficiary department on 17th July 1987. The record of the payment of compensation to the ADJ along with the names of the recorded owners and the respective amounts for relevant Khasra numbers has been submitted in a tabular format in para 9. It is submitted that "the acquisition qua the land in question is complete and the land is free from all encumbrance."

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 assertion by the Petitioners that they continued to remain in possession of the land in question gives rise to a disputed question of facts. The fact remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the 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 observations have been reiterated in the judgment of the three Judge Bench in *Indore Development Authority vs. 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 negated 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 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 observations have been followed by this Court in several orders including the order dated 10th December, 2018 in WP(C) No. 2734/2015 (***Devender Singh v. The Hon'ble Lt. Governor***) and similar petitions have

been dismissed on the ground of laches.

8. Clearly, the Petitioners' case is covered by the above decisions of the Supreme Court and the present petition is dismissed on the ground of laches. The interim order dated 2nd May 2016 as confirmed on 13th March 2018 hereby stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 29, 2019

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