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

+ **W.P.(C) 1466/2018**

SH. NARAIN SINGH AND ORS.

.... Petitioners

Through: Mr. Harshit Jain &
Mr. Prakhar Sharma,
Advocates.

versus

UNION OF INDIA AND ORS.

... Respondents

Through: Mr. Akshay Chandra
and Mr. Basheer Faizi,
Advocates for Respondent No.
3.

Mr. V. Balasi, Advocate and
Ms. Sripradha Krishnan,
Advocates for LAC/L&B
Department.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
07.08.2019

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

“a. Issue a writ of certiorari and/or any other suitable writ of like nature, quashing the Award No. 19/80-81 of village Rithala, Delhi, in respect of Petitioner's land as illegal and declaring the aforesaid land acquisition proceedings, as lapsed and null & void, in respect of and in relation to the petitioner's land under Section 24 of The Right to Fair Compensation and

Transparency in Land Acquisition (Rehabilitation & Resettlement) Act, 2013.

b. Issue a writ of mandamus or any other suitable writ of like nature, directing the respondents No. 1 to 4 to restore the land of the petitioner or in alternative, provide the equivalent land of the present market value to the petitioner or to start the acquisition afresh and to make the payment as per the current market value as per The Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation & Resettlement) Act, 2013”

2. The background facts are that the land in question i.e. 15 *Bighas* 4 *Biswas* in Khasra Nos.78, 179, 185, 202, 204 situated in the revenue estate of village Rithala (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 24th October, 1961 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 dated 11th January, 1967. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 19/80-81 on 25th April, 1980.

3. As far as the Petitioners are concerned, it is stated that they are the joint owners of the subject land. A copy of the *Khatauni* for the year 2003-04 has been annexed with the petition. It is averred in the petition that the possession of the subject land continues to be with the Petitioners. Reference has been made to the possession proceedings dated 29th April, 1980 and a translated copy of the same has been annexed with the petition. It is further averred that compensation has not been paid or tendered to the Petitioners. The petition also adverts to the judgment of the Supreme Court in *Pune*

Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183.

4. A counter affidavit has been filed on behalf of the DDA. It is stated therein that possession of the portion of the land bearing Khasra Nos. 178 (3-12), 179 (2-13), 185 (2-11), 202 (3-14) and 204 (2-13) situated in Village Rithala has not been taken by the LAC and handed over to the DDA. As regards compensation, it is averred that the DDA has already released a sum of Rs. 2,03,66,983 by way of cheque [cheque no. 299215] date 21st April, 1980. No rejoinder has been filed on behalf of the Petitioners to the counter affidavit of the DDA.

5. Today, at the final hearing of the petition, Counsel for the Petitioner, Mr. Harshit Jain, contended that the land adjoining the subject land, which also formed part of the Award impugned in the present petition, constituted the subject matter of an earlier writ petition being W.P. 866/2017 (***Devraj Singh v. Union of India***) before this Court. He placed reliance on the judgment in the said writ petition 12th January, 2018, where the Court had granted the relief of declaration of deemed lapsing on the basis of the judgment of the Supreme Court in ***Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183.***

6. The assertion of the Petitioners that possession has not been taken and compensation not paid, gives rise to disputed questions of fact, which cannot be examined in the present proceedings. The fact further remains that there

is no explanation anywhere in the petition for the inordinate delay of over three decades in approaching the Court for relief.

7. 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 reliance placed by the Petitioner on the decision of this Court in *Devraj Singh v. Union of India* (*supra*) is to no avail since it was rendered at a time when the decision of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra* (*supra*) had not been rendered. This Court is bound by the latter judgment which continues to remain operational.

10. For the aforementioned reasons, the writ petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 07, 2019
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