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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1413/2016**

RANJU OBEROI

.... Petitioner

Through: Mr. Shiv Gupta, Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Sanjay Kumar Pathak, Sunil

Kumar Jha and M.S. Akhtar, Advocates
for LAC/L&B/GNCTD.

Mr. Dhanesh Relan, Standing Counsel,
DDA along with Ms. Komal Sorout and
Ms. Pallavi Nagar.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

22.07.2019

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

“a. a writ, order and / or direction declaring that the land acquisition proceedings in respect to the land of the Petitioner comprised in Khasra No. 1271 (1 Bigha 2 Biswa) in village Malikpur Kohi @ Rangpuri, New Delhi initiated vide Notification bearing No.F.9(12)/95/L&B/LA/9743 dated 27.06.1996 issued under Section 4 of the Act of 1894 and Notification No. F.9(12)/95/L&B/LA/1046 dated 10.01.1997 issued under Section 6 of the Act of 1894 and Award No.2/1998-99 dated 06.01.1999 issued under Section 11 of the Act of 1894 have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. The background facts are that the land in question i.e. 1 *Bigha 2 Biswas* in Khasra No. 1271 in village Malikpur Kohi, Rangpuri, New Delhi (hereafter, 'subject land') was by a notification under Section 12 of the Delhi Development Act, being Notification No.F.12(69)/plg-92/L&B/6640, declared as Development Area No. 176. On 27th June, 1996 the subject land was notified for acquisition under Section 4 read with Section 17(1) of the Land Acquisition Act, 1894 ('LAA') for the public purpose of the "development of the Vasant Kunj Phase IV". This was followed by a declaration under Section 6 of the LAA dated 10th January, 1997. The Land Acquisition Collector ('LAC') passed an Award No. 2/1998-99 on 6th January, 1999.

3. As far as the Petitioner is concerned, it is stated in the petition that the Petitioner purchased the subject land by way of a registered sale deed dated 17th May, 1982 from one Shri Suraj Mal. A copy of the sale deed has been annexed with the petition. It is also stated that the *Khatauni* for the year 1980-81 demonstrate that the Petitioner is the duly recorded owner of the subject land. A copy of the said *Khatauni* has been enclosed with the petition.

4. In para 1 of the petition, it averred that physical possession of the subject land remains with the Petitioner. It is further averred therein that the Petitioner has not been paid compensation for acquisition of the subject land. In para 7 (xiii) of the petition, however, it is stated that the paper possession of several lands pertaining to the impugned award, including that of the Petitioner, was taken on 31st December, 2013. A copy of the

possession proceedings has been annexed with the petition. It is stated in para 7 (xii) of the petition that the Petitioner has “never filed earlier any writ petition challenging the notification issued under Section 4 read with Section 17, Section 6 and the Award under Section 11” of the LAA.

5. In para 7 (x) of the petition, reference has been made to an order of this Court in *Vasant Kunj Enclave Housing Welfare Society v. Union of India* [W.P.(C) No. 1953/1997] dated 4th May, 2012 where the Court had disposed of the said petition in terms of the majority view in W.P.(C) 4789/1995, 2345/1996 and 2328/2996. It is averred that the Petitioner has “never filed earlier any writ petition challenging the notification issued under Section 4 read with Section 17, Section 6 and the Award under Section 11”. It is averred that this Court in *Veena Mahajan v. Govt. of NCT of Delhi* [W.P.(C) No. 3729/2014] by its judgment dated 16th September, 2014 in respect of the award impugned by the present petition issued a declaration that the land acquisition proceedings are deemed to have lapsed. Thereafter, the petition refers to the passage of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and the Petitioner’s entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act on the ground that Petitioner continues to remain in physical possession of the said land and that compensation had not been paid.

6. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that physical possession of the land comprised in Khasra No. 1271 (5-00) was taken on 31st December,

2013. It is further averred that as per the *Naksha Muntazamin*, the Petitioner is not the recorded owner of Khasra No. 1271 (1-2). In respect of compensation it is stated that “compensation amount has not been received from the requisitioning authority. Thus, compensation could not be paid to the interested persons”. It is further averred that the acquisition proceedings have been “interdicted by interim orders of this Hon’ble Court” in W.P.(C) 7802/2012 and that as per the judgment of the Supreme Court in ***Abhey Ram v. Union of India*** “stay granted in respect of some would be applicable to others also and the period of stay has to be excluded”. It is averred that a fresh Section 6 declaration dated 4th July, 2017 has been issued pursuant to the quashing of Section 6 declaration in ***Vasant Kunj Enclave Housing Welfare Society v. Union of India*** [W.P.(C) 1953/1997] and that Khasra No. 1271/1-2 (5-00) has been included in the said declaration.

7. In the counter affidavit filed on behalf of the DDA, it is stated that possession of the subject land was taken and handed over to the DDA on 31st December, 2013 and “further transferred to the AE-SWD-4 on the same day”. A copy of the possession proceedings has been annexed with the counter affidavit. In respect of compensation, it is averred that a sum of Rs.13,47,00,000/- was sent to the L&B Department on 10th October, 1996 through cheque no. 642706 dated 07.10.2014 against Awards No. 2/98-99 & 8/98-99 of Village Malikpur Kohi, Rangpuri.

8. A rejoinder has been filed by the Petitioner to the counter affidavit of the LAC, wherein the averments in the said counter affidavit have been denied and it is stated that a fresh Section 6 declaration in respect of the Petitioner’s

land could not have been issued in view of this Court's status quo order dated 21st December, 2015. It is further averred that the LAC has ignored the order of this Court in *Veena Mahajan v. Government of NCT Delhi* (*supra*) where a declaration of deemed lapsing had been issued. No rejoinder has been filed on behalf of the Petitioner to the affidavit of the DDA.

9. The assertion by the Petitioner that he continued to remain in possession and did not receive any compensation gives rise to disputed questions of fact and cannot be examined in the present petition. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

10. 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.”

11. 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 essentially 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)*.

12. The decision of this Court in *Veena Mahajan v. Government of NCT Delhi (supra)* is of no assistance to the Petitioner as it was rendered at a time when the decision in *Indore Development Authority v. Shailendra (supra)* was not delivered. There was no occasion for this Court in the said decision to examine whether the plea for a declaration under Section 24 (2) of the 2013 Act was barred by laches.

13. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 19th February, 2016 as confirmed on 21st November, 2017 hereby stands vacated.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 22, 2019/ abc