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

+ **W.P.(C) 1104/2017**

KANWAR SINGH BANSAL & ORS. Petitioners

Through: Mr. I.S. Dahiya, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Rajesh Kumar, Senior Panel counsel
for UOI.

Mr. Dhanesh Relan, Standing Counsel
with Ms. Mrinalini Sharma for DDA

Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

02.04.2019

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1. The prayers in the petition read as under:

“(i) Issue a writ of certiorari or any other appropriate writ, order or direction to call the record pertaining to the land comprising in khasra no. 43/13 min (3-10) biswas, situated in the revenue estate of village Shahbad Daulatpur, Delhi from the office of respondents; and

(ii) Issue a writ of mandamus or any other appropriate writ, order or direction for quashing the acquisition of the land comprising in Khasra No. 42/13 min measuring 15 biswas situated in revenue estate of village Shahbad Daulatpur, Delhi, as the compensation pertaining to this land has not been paid to the petitioners;

(iii) Award costs of the present petition in favour of the petitioners and against the respondents; and

(iv) Issue any other or further appropriate writ, order or direction as

this Hon'ble Court deems fit and proper in the facts and circumstances of the case, in favour of the petitioners and against the respondents."

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 28th April 1995, followed by declaration under Section 6 of the LAA on 26th April 1996. The impugned Award No. 1/98-99 was passed on 24th April 1998.

3. The Petitioners state that they have received part compensation. It is stated in the petition that the father of the Petitioners, Shri Tek Chand, was the actual owner of the said lands and received compensation for the subject land except for land in Khasra No. 42/13 measuring 15 biswas which was not paid. On 10th November 2010, after receipt of compensation the father of the Petitioners filed an application in LAC (North) office claiming compensation for the left out 15 biswas however, no action was taken. It is submitted by the Petitioners that although the notifications under Section 4 & Section 6 of LAA and also the revenue records reflect the land to be 4 bhisas 16 biswas, the award on the other hand states the area of the Khasra No. to be (4-11).

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of the subject lands was taken and handed over to the DDA on 17th November 2000. As regards the payment of compensation it is explained in para 4 as under:

"4. That the present writ petition is further liable to be dismissed as the petitioners are claiming the relief of lapsing of 15 biswa out of khasra number 42/13, Village Shahbad Daulatpur without disclosing the true and correct facts. It is submitted that the said khasra consisted of land measuring (4-16) out of which the Award was passed for land measuring (4-11) (refer to page 23 of paper book) and copies of khatoni filed by petitioners reflected their land as (3-10). The report submitted by the then LAC which is available at page 94 of the paper book reflects the correct position that land

measuring (2-15) vested with the Gaon Sabha for which the compensation was sent before Reference Court u/s 30-31 of Act, 1894 on 13.2.2003. It is submitted that predecessor in interest of the petitioner contested the said Reference Petition which was answered vide Award dated 16.10.2008 and having been declared the rights of the Gaon Sabha extinct, the compensation for land measuring (2-15) was granted to the IP No. 2 i.e. Tek Chand whom the petitioners have been claiming their rights in the present writ petition. It is pertinent to mention here that at no point of time before the decision was rendered by the Reference Court, the Tek Chand claimed any any right over and above the land measuring (2-15) which vested with Gaon Sabha. Thus the extent of land which vested with Gaon Sabha prior to acquisition proceeding and belonged to the Tek Chand was understandably (2-15) for which the compensation has been received by Tek Chand as the possession of the same was taken by the Government on 17.11.2000 by preparing possession proceeding on the spot and handed over to the DDA on the spot.”

5. In other words, the stand of the LAC is that the Petitioners’ claim for the unpaid compensation in respect of 15 biswas of land is no longer maintainable after the order dated 16th October 2008 of the reference Court. The positive stand of the LAC is that after Shri Tek Chand, the father of the Petitioners are probably claiming compensation, succeeded before the reference Court, he was paid the concerned sum. This is further explained in para 5 of the counter affidavit of the LAC as under:

“5. That the present writ petition is liable to be dismissed as onebigha of land out of khasra number 42/13 belonged to Kanti Prasad who was paid compensation on 3.1.2003 whereas-16 biswa of land belonged to Kishan Gopal out of the said khasra number and Kishan Gopal was paid compensation for 6 biswa and compensation for 10biswa could not be paid to Kishan Gopal. The total of all three parts i.e.(2-15) (1-00) and (0-16) comes out to (4-11) for which the Award came to be passed and possession was taken thereof. It is submitted that the petitioners have not been claiming their rights through Kishan Gopal who was not paid compensation for 10 biswa but are claiming through Tek Chand who claimed relief under section 30-31 Reference Petitionfor (2-15) and got the relief of compensation vide the said Award. Thus

there was no land available for the share of Tek Chand under the acquisition proceedings for which the petitioners are entitled to any relief.”

6. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, physical possession of the subject land was acquired by the LAC on 17th November 2000 and handed over to the DDA. On the aspect of compensation, it is stated that DDA remitted a sum of Rs. 17,07,71,000/- in favour of the LAC in respect of compensation for Award No. 1/98-99.

7. The stand of the Petitioners in their rejoinder to the counter affidavit of LAC is that 3 bigha 10 biswas of land was in the name of Shri Tek Chand, father of the Petitioners and same area of land was vested in the Gaon Sabha. Therefore, LAC ought to have assessed the compensation of (3-10) in the name of Gaon Sabha instead of (2-15). While admitting that compensation for land to the extent of 2-15 has been paid to Shri Tek Chand, the Petitioners claim that compensation for the balance 15 biswas is yet to be paid.

8. The net result is that the dispute that remains is only as regards the payment of compensation for 15 biswas of the total land acquired. In other words there is no dispute that for the major portion of the land, compensation has indeed been paid.

9. The Petitioners appear to be aware of the order passed by the reference Court on 16th October 2008 in terms of which their father was paid compensation for 2 bighas 15 biswas of land which was earlier claimed to belong to the Gaon Sabha. The Petitioners have no explanation for not challenging the said order of the reference Court to the extent of their claim for compensation for 15 biswas for all these years.

10. In any event, it is plain that the present case is not one of failure to pay compensation for the land acquired. With a major portion of the compensation, barring a dispute over a relatively small extent of 15 biswas, having been paid no relief under Section 24 (2) of the 2013 Act can possibly be claimed. The entitlement of the Petitioners to receive compensation for the said extent of 15 biswas is also disputed by the LAC. Added to this is the fact that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for even that limited relief. The following observations in the decision of the Supreme Court in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 would preclude the Petitioners from being granted relief:

“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. For the aforementioned reasons, there is no merit in this writ petition and it is dismissed as such, with no orders as to costs.

S.MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 02, 2019

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