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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1473/2016

MANOJ & ORS.

..... Petitioners

Through: Mr Anuroop PS, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B
Mr AjjayAroraa and Mr Kapil Dutta,
Advocates for Respondent/SDMC
Ms Beenashaw N. Soni, ASC for
Respondent/DDA
Mr Kamran Malik, Advocate for Applicants

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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29.01.2019

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

“It is, therefore, respectfully prayed that this Hon’ble 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 lands comprised in Khasra No. 565/3/1 situated in the revenue estate of village Dhirpur, Delhi acquired vide Award No.1359 dated 23.7.1962 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 neither possession of the lands of the petitioner have been taken nor compensation with respect to lands have been paid.

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, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued on 3rd June 1961 followed by declaration under Section 6 of LAA on 27th October 1961. The impugned Award No.1359 was passed way back on 23rd June 1962. There is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for the reliefs in terms of Section 24 (3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’). 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 2013 Act.

3. In the counter-affidavit filed by the LAC, it is stated that the present petition is liable to be dismissed as the Petitioners are not the recorded owners of the land and also because they have claimed relief of Khasra No.565/3/1 (4-18) whereas the as per Award No.1359, the extent of land in the said Khasra number is (1-02) only. It is submitted that subsequent to the Award, actual vacant physical possession of the subject land was duly taken on 18th September 1962 on the spot by preparing possession proceedings and handed over to the requisition agency and the said land has vested with the Government since free from all encumbrances. With respect to compensation, it is stated that “compensation for khasra number 565/3/1 (1-02) was sent to the RD vide cheque number 392454 dated 19.3.1966.”

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 22nd February 2016 as confirmed on 5th March 2018 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 29, 2019