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

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W.P. (C) 1100/2015

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..... Petitioner

Through: Mr Vikas Mann, Mr. Aakash Sehrawat
and Mr. Rohan Nandal, Advocates.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC with
Mr. T.P. Singh for UOI
Mr Siddharth Panda, Advocate for
LAC/L&B
Ms. Shobhana Takiar with Ms. Sivani
Jain for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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19.03.2019

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

“A. Allow the present writ petition.

B. Issue a writ, order or direction in the nature of mandamus commanding the respondents to exempt the land comprising of Khasra No. 327 (4-16) and 328/1 (2-6) situated in revenue estate of Village Pulpehladpur, New Delhi in favour of the petitioner which was acquired by the notification dated 23.01.1965 under section 4 of Land Acquisition Act, 1894 and notification dated 13.01.1969 under section 6 of the Land Acquisition Act, 1894 which has been deemed to be lapsed in view of the section 24(2) of the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to release the ibid land of the petitioner;

C. Issue a writ, order or direction to the respondents to restore the exclusive title and cultivator rights of the petitioner over the land bearing Khasra No. 327 (4-16) and 328/1 (2-6) situated in revenue estate of

Village Pulpehladpur, New Delhi in the revenue record;

D. Award the cost of the petition to this petitioner;

E. Pass any such further order(s)/directions as this Hon'ble Court may deem fit and proper in 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 23rd January 1965 followed by declaration under Section 6 LAA on 13th January 1969. The impugned Award No. 63/ 1982-83 was passed on 31st January 1983.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the physical possession of the subject land in Khasra No. 327(4-16) was taken on 4th August 1983 except Khasra No. 328/1 min (2-07) which could not be taken due to built up. On the aspect of compensation it is stated that “However, in the Naksha Muntazameen there is reference of direction being issued by the then LAC for forwarding of compensation amount to the court of ADJ under Section 30-31 of the LA Act but it could not be ascertain whether the amount was forwarded to the court or not.” It is further submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioner or his predecessors-in-interest were ever the recorded owners of the land. It is submitted that

4. In the counter-affidavit filed by the DDA, it is submitted that physical possession of the the lands comprised in Khasra No. 327 (4-16), 328/1 min (1-19) was taken by the LAC and handed over to the DDA on 4th March 1983. It is further submitted that compensation of Rs. 88,49,065 was released vide cheque No. 541822 dated 1st January 1983 towards compensation for the said award.

5. The rejoinder to the counter affidavit of the LAC merely reiterates the facts in

the petition by stating that the physical possession was not taken and the compensation has still not been paid.

6. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question and that no compensation was tendered gives rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

7. 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.”

8. The above decision was reaffirmed by the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. 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 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 negatived 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/negatived, 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.”

9. The above observations have been followed by this Court in several orders

including in *Mool Chand v. Union of India 2019 (173) DRJ 595[DB]* and similar petitions have been dismissed on the ground of laches.

10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

11. The interim order dated 6th February 2015 passed by this court which stood confirmed on 10th November 2017 stands vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 19, 2019

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