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

**+ W.P. (C) 2220/2014 & CMs 4632/2014, 15220/2014,
15780/2014 & 15662/2017**

RAJ SINGH & ORS. Petitioners

Through: Mr. Akhil Sachar, Advocate.

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Ajay Verma, Advocate for DDA.
Mr. Yeeshu Jain Standing Counsel
for LAC/L&B with Ms. Jyoti Tyagi,
Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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07.08.2019

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

“a) Issue a writ, order or direction in the nature of certiorari thereby calling the records from the respondents pertaining to the present case of the petitioners and declare the acquisition proceedings as ultra-vires the Land Acquisition Act and Article 300-A read with Article 14 of the Constitution of India and further quash the land acquisition proceedings including Notification F-11 (19)/2001/ L.&B./L.A./20112 dt. 21.03.2003 issued under Section 4 and declaration/ notification No. F-11 (15)/2004/L.&B./L.A./28227 issued under Section 6 dated 19.03.2004 of the Land Acquisition Act and Award bearing No.12 /2005-06 dt. 12.07.2005 (Pehladpur Bangar) in respect of land (mentioned in Para 4 of this writ petition) of the petitioners situated in Revenue Estate of Village- Pehladpur Bangar, North-West, Delhi in NCT of Delhi which suffer from malafide and are issued/made without

application of mind and is abuse of authority and power, as being illegal, malafide, unconstitutional, vague, null and void ; and

b) Issue an appropriate writ, order or direction thereby declaring the entire acquisition proceedings qua the land of the petitioners (mentioned in Para 4 of this writ petition) as deemed to have lapsed in view of provision of section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

c) Issue a Writ, order or direction in the nature of prohibition thereby restraining the respondents, their officers, agents or their representatives or anybody claiming through them from dispossessing the petitioners from his settled possession over the land in dispute as found mentioned in Para 4 of this writ petition and changing the nature, title and character of plot in dispute falling in revenue estates of Village-Pehladpur Bangar;, and

d) Award the costs of writ petition in favour of the petitioners.”

2. The background facts are that the land in question forms part of Village, Pehladpur Bangar Lal Dora (hereafter, ‘subject land’). It was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 21st March 2003. This was followed by a declaration under Section 6 of the LAA dated 19th March 2004. The Land Acquisition Collector (LAC) passed Award No. 6/2005-06 on 12th July, 2005.

3. As far as the Petitioners are concerned, it is stated that they are all land owners in the same village. It is stated in the petition that the Petitioner No.1 challenged the acquisition proceedings in this court by filing W.P. (C) 17425/2005 which came to be dismissed by a

common judgment dated 9th July 2007. It is stated that thereafter, several SLP's were filed in the Supreme Court in which status quo was directed to be maintained and the same are still pending. It is stated that the Petitioners are still in physical possession of the land in question. It is further stated in the Synopsis submitted by the Petitioners that they have accepted compensation for the said land.

4. In the counter affidavit filed by the LAC it is stated that the possession of the land measuring 4 Bhiga and 2 Biswas out of the total land measuring 4 Bhiga 4 Biswas, which is comprised in Khasra No. 39/9 min. was duly taken on 26th August 2005 and compensation was paid to the recorded owners in September/ October 2005 itself. It is stated that the left out area measuring 2 Biswas could not be taken due to built up construction. It is also stated that other than the Petitioner No.1, no other Petitioner has ever challenged the acquisition proceedings. It is also stated that the Petitioner No. 1 did not prefer any SLP against the common Judgment of this court dated 9th July 2007 and by not pursuing the remedy available to them they do not have any right to claim the benefits endured by the people who were parties to the said SLP. The LAC has also filed an additional affidavit in which it is stated that the Petitioners have not challenged the acquisition proceedings until filing of this Writ Petition as they have already accepted the compensation and no cause of action lies for them to challenge the said acquisition.

5. In the counter affidavit filed by the DDA, it is averred that possession of Khasra No. 39/9 min. (4-02) was taken over by the LAC and handed over to the DDA on 26th August 2005. It is stated

that the petition is grossly barred by delay and laches. It is also stated that the physical possession of the remaining land in Khasra No. 39/79 (0-02) could not be handed over to DDA due to being built up. The details of compensation paid are submitted by the DDA where Petitioner No.1 has been paid Rs.64,36,685.83 and Petitioners Nos. 2 to 5 have been paid Rs.16,09,171.45 each on 28th September 2005 and 7th October 2005 respectively. It is stated that the Petitioners clearly do not meet the requirement of Section 24 (2) of the 2013 Act to claim lapsing of acquisition.

6. Rejoinders have been filed on behalf of the Petitioners to the counter affidavits of the LAC. In the rejoinder it is averred that the Respondents merely took paper possession of the subject land and the Petitioners continue to remain in possession. It is stated that even though compensation was paid to the Petitioners the land still vests with them and physical possession of the subject land has not been taken. It is stated that the compensation has been received by the Petitioners under protest and they are willing to pay it back. No Rejoinder has been filed to the counter affidavit of the DDA.

7. The Petitioners admit to having received compensation. The assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. On the aspect of laches, the three Judge Bench of the Supreme Court in ***Indore Development Authority v. Shailendra (2018) 3 SCC 412*** 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 become 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. 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 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 on certain other issues but 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 ***Mool Chand v. Union of India 2019 (173) DRJ 595 DB***.

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. The pending applications are also disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 07, 2019

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