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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1618/2016 & C.M. No. 7002/2016 (stay)

BHARAT SWARUP

.... Petitioners

Through: Ms. Jyoti Kataria Bajaj,
Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Yeeshu Jain and
Ms. Jyoti Tyagi, Advocates for
LAC/L&B

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER

14.08.2019

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

“i. issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to 750 sq. yds. of land of the Petitioner comprised in Khasra No. 707/595 and 706/595 situated in Revenue Estate of Village Maidan Garhi, NCT Delhi having lapsed and further quashing the impugned notification No. F9(16)80-L&B dated 25.11.1980 issued under Section 4, notification No. F9(28)85-L&B dated 18.06.1985 issued under Section 6 of the Land Acquisition Act, 1984, and Award No. 23/87-88 with respect to

750 sq. yds. of land of the Petitioner comprised in Khasra No. 707/595 and 706/595 situated in Revenue Estate of Village Maidan Garhi, NCT Delhi; and

ii. issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 750 sq. yds. of land of the Petitioner comprised in Khasra No. 707/595 and 706/595 situated in Revenue Estate of Village Maidan Garhi, NCT Delhi.”

2. The background facts are that the land in question i.e. Khasra No. 707/595 and 706/595 (‘subject land’) admeasuring 750 sq. yds. situated in the Revenue Estate of Village Maidan Garhi, NCT of Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 25th November, 1980 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 18th June, 1985. Thereafter, the Land Acquisition Collector (‘LAC’) passed an Award No. 23/87-88 under Section 11 of the LAA.

3. As far as the Petitioner is concerned, it is stated that he purchased the subject land by way of a General Power of Attorney (‘GPA’) and an Agreement to Sell (‘ATS’) dated 4th August, 2005. It is stated by the Petitioner that the names of his predecessors are duly recorded in revenue records. It is claimed by the Petitioner that he has been in continuous peaceful possession of the subject land, which is reflected in the *Khasra Girdawari* for 2007-08. It is stated by the Petitioner that Master Plans for Delhi for the years 1962, 2001, and 2021 notify

the subject land as “Agricultural Green Area”. Therefore, it is submitted by the Petitioner that the acquisition was not required for the stated public purpose. It is averred by the Petitioner that no substantial proceedings under Section 5A of the LAA were conducted in respect of the subject land. It is also averred by the Petitioner that no notice under Section 12(2) of the LAA was issued to him. It is further averred by the Petitioner that no compensation has been paid to him in respect of the subject land.

4. Counter-affidavit has been filed on behalf of the LAC. In the counter-affidavit of the LAC, it is averred that physical possession of the subject land was duly taken by way of Possession Proceedings dated 16th July, 1987 and handed over to the DDA. It is further averred by the LAC that compensation of a sum of Rs.1,46,499.70 has been paid to the recorded owners by way of Cheque No. 81006 dated 31st August, 1987. It is stated that the Petitioner is not the recorded owner of the subject land. It is further submitted that the transfer of land effected by way of the aforesaid GPA and ATS is in contravention of the Delhi Land (Restrictions and Transfer) Act, 1972.

5. Averments in respect of the possession of the subject land and payment of compensation in respect thereof raise disputed questions of fact which cannot be entertained by this Court. Be that as it may, the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for relief. 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.”

6. 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 only 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)*.

7. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 26th February, 2016 as continued on 21st March, 2017 is hereby vacated. The pending application is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 14, 2019

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