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

+ **W.P.(C) 3196/2018**

LAJJAWATI THROUGH POWER OF ATTORNEY

HOLDER MS. SARITA JAIN Petitioner

Through: Mr. Aman Nandrajog with Ms.
Shreya Nair, Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Chiranjiv Kumar, for UOI.
Ms. Sukhbeer Kaur Bajwa for
DDA.
Mr. Biraja Mahapatra with Mr.
Sumit Mishra for L&B/LAC.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

17.07.2019

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1. The prayers in the petition read as under:

“a) An appropriate writ, order, or direction declaring that the land acquisition proceedings in respect of the subject land have lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and

b) An appropriate Writ, order, or directions quashing the Notification No.F-9 (16)/80-L&B dated 25.11.1980 issued under Section 4 of the Land Acquisition Act, 1894, and Notification No.F-9(26)/85-L86B dated 07.06.1985 issued under Section 6 of the Land Acquisition Act, 1894;

c) An appropriate Writ, order, or directions quashing the Award No. 15/87-88 dated 05.06.1987 published under section 11 of the Land Acquisition Act, 1894, in respect of the land comprised in Khasra Nos. 1795/1 (0-13) and 1796/1 (1-2) admeasuring a total of 1 Bighas and 15

Biswa, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, Mehrauli, New Delhi; and

d) An appropriate Writ, order, or directions restraining the Respondents from taking physical possession of the land of the Petitioner in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. It is stated in the petition that “the Petitioner is the owner of the land comprised in Khasra Nos. 1795/1 (0-13) and 1796/1 (1-2), admeasuring a total of 1 Bigha and 15 Biswas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi.” It is stated in the present petition is being filed through Ms. Sarita Jain who is the attorney holder and that she acquired the property vide GPA dated 21st February 2018. It is stated in the petition that after the judgment by this court in CWP No. 1639/85 titled ***Balak Ram Gupta v. Union of India***, the declaration under Section 6 of the Land Acquisition Act, 1894 (LAA) was quashed. However, the Supreme Court clarified that the quashing would only be applicable to the petitioners therein and would not be a judgment in rem. It is further stated that no compensation has been paid and the physical possession of the subject lands still vests with the Petitioner.

3. The narration in the petition reveals that notification under Section 4 of the LAA was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 7th June 1985. The impugned Award No. 15/87-88 was passed on 5th June 1987.

4. In the counter affidavit filed on behalf of the LAC, it is submitted that the petition is barred by laches. It is stated that the possession of

subject land has already been taken over. On the aspect of compensation, it is submitted that compensation amount of Rs. 1,81,612.98 was sent to the RD in the name of Ms. Lajjawati. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC. The petition having been filed through a GPA holder, the locus standi of the Petitioner to claim relief is also in doubt.

5. In any event, the assertion by the Petitioner that she continues to remain in possession of the land in question gives rise to a disputed question of fact which cannot be examined in this petition. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. 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.”

7. The above observations have been reiterated in the judgment of the three Judge Bench 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 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 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/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.”

8. 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*.

9. 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 interim order dated 4th April 2018 confirmed on 4th July 2018 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 17, 2019
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