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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2153/2017

VIKAS DAGAR & ORS.

.... Petitioners

Through: Mr. V.P. Rana along with
Ms. Pooja Wason, Advocates

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Ms. Shweta Anand,
Advocate for Ms. Shobhana Takiar,
Advocate for R-3.

Mr. Yeeshu Jain, Standing Counsel
for LAC along with Ms. Jyoti Tyagi,
Advocate

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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29.07.2019

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

“(a) issue a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of land measuring 2200 sq.yds. approx. comprising in Khasra No.29/20/1, 20/2 and 29/21/2 situated at Village Mangolpur Kalan, Delhi acquired vide award No.1672/1964 dated 22.01.1964 and Award No.18/1980-1981 dated 24.03.1980;

(b) issue appropriate write, order or direction declaring the acquisition proceedings in respect of land measuring 2200 sq.yds. approx. comprising in Khasra No.29/20/1, 20/2 and 29/21/2 situated at Village Mangolpur Kalan, Delhi acquired vide award No.1672/1964 dated 22.01.1964 and Award No.18/1980-1981 dated 24.03.1980, having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013;

(c) award the cost of the present petition in favour of the petitioners and against the respondents;”

2. The background facts are that the land in question i.e. 2200 sq.yards comprised in Khasra Nos. 29/20/1, 20/2 and 29/21/2 situated at Village Mangolpur Kalan (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 14th October, 1961. This was followed by two declarations under Section 6 of the LAA dated 29th July, 1963 and 25th July, 1966. In respect of the declaration dated 29th July, 1963, the Land Acquisition Collector (‘LAC’) passed an award being Award No. 1672/1964 on 22nd January, 1964 covering Khasra No. 29/21/2. In respect of the declaration dated 25th July, 1966, the LAC passed an award being Award No. 18/1980-81 on 23rd April, 1980 covering Khasra Nos. 29/20/1 and 20/2.

3. As far as the Petitioners are concerned, it is stated that the revenue records reveal that the *Gaon Sabha* is the owner of the subject land, but that the Petitioners have been in possession of the subject land “since the inception of the Village”. A copy of the *Khatauni* for the year 1980-1981 has been annexed with the petition. It is further stated that the Petitioners have “always been treated as *Lal Dora*” and that there has always been confusion concerning the actual Khasra Nos. that the Petitioners have been in possession of. A copy of the *Lal Dora* certificate dated 29th April, 1980 in the name of Shri Anoop Singh, claimed to be related to Petitioner Nos. 4 to 7 has been annexed with the petition.

4. Reference has been made to a civil suit filed by Shri Anoop Singh against the Delhi Electric Supply Undertaking (DESU) and the Municipal

Corporation of Delhi (MCD) and the order of the Court therein restraining the DESU from disconnecting electricity in the premises on the subject land. Reference has also been made to Civil Suit No. 61/2004 filed by Shri Anoop Singh. It is stated that the said suit was dismissed by way of judgment dated 23rd September, 2016. It is also stated that the appeal against the said judgment [Appeal/RCA No.1/2016] is pending before the Senior Civil Judge, Rohini Courts, Delhi.

5. It is averred that the Petitioners continue to remain in possession of the subject land and have still not been paid compensation. Thereafter, the petition straightway refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioners' entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act.

6. A counter affidavit has been filed on behalf of the DDA, where it is averred that the Petitioners have "ignored the principle of alternative remedy by filing the present writ petition, where an appeal is already pending". It is further averred that the Petitioners have not produced any document to demonstrate that they have any right, title or interest over the said land and that, therefore, they do not have the *locus standi* to file the present petition. It is further averred that physical possession of the Khasra Nos. 29//20/1(2-04), 20/2(1-4) was taken and handed over to the DDA on 1st May, 1980. It is also averred that possession of Khasra No. 29//21/2(3-9) was handed over to the DDA on 6th March, 1963. It is also stated that the *Gaon Sabha* is the owner of the subject land and that the "petitioners had encroached upon the

government land and the unauthorized structures were removed twice on 8.1.2004 and 4.3.2004”.

7. On the Petitioners’ own showing, the *Gaon Sabha* is the recorded owner of the subject land. Therefore, their *locus* to file the present petition is extremely doubtful. Further, the assertion of the Petitioners that they continue to remain in possession of the subject land and have not been paid compensation, gives rise to disputed questions of fact, which cannot be examined in the present petition. In any event, on the Petitioners’ own showing there are proceedings by way of appeal in the Court of the Senior Civil Judge concerning their purported right and interest in the land in question.

8. The fact also remains that the Petitioners have 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.”

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 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)*.

10. For the aforementioned reasons, the writ petition is dismissed.

11. The interim order dated 8th March, 2017 as confirmed on 13th February, 2018 stands hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 29, 2019