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

+ **W.P.(C) 2177/2017**

CHANDERWATI Petitioner
Through: Mr. Anuroop P.S., Advocate

versus

UNION OF INDIA & ANR. Respondents
Through: Mr. Nikhil Goel and Mr. Dushyant
Sarna, Advocates for DDA.
Mr. Rajneesh Sharma, Advocate for
LAC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **23.07.2019**

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

(a) Issue a writ of certiorari thereby calling for the records of the acquisition proceedings in respect of land comprised in Khasra No.38/1 (1-06), 39/5 (1 07), in all measuring 2 Bighas 13 Biswas situated in the revenue estate of Village Bakoli, Delhi, acquired vide Award bearing No.5/2008 2009/DC(NW) dated 16.02.2009; and

(b) issue appropriate writ, order or direction thereby declaring the acquisition proceedings having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013; and

(c) issue appropriate writ, order or direction thereby directing the respondents to award the compensation as per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 including all other statutory benefits under the said New Act of 2013; and

(d) award the cost of the proceedings to the humble petitioner.”

2. The background facts are that the land in question i.e. 2 *Bighas* 13 *Biswas* in Khasra No.38/1 (1-06), 39/5 (1-07) situated in revenue estate of Village Bakoli, New Delhi (hereafter, ‘subject land’) was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd February, 2006 for the public purpose of the “development of Narela Phase IV”. This was followed by a declaration under Section 6 of the LAA dated 22nd February, 2007. The Land Acquisition Collector (‘LAC’) passed an Award No.5/2008-2009/DC/(N-W) on 16th February, 2009.

3. The Petitioner states that she is the owner of the subject land. A translated copy of the revenue record has been annexed with the petition. It is averred in the writ petition that the Petitioner continues to be in physical possession of the subject land and has not been paid compensation for its acquisition. Thereafter, the petition refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 (‘the 2013 Act’) and the Petitioner’s entitlement to a declaration of deemed lapsing under Section 24 (2) thereof on the ground that possession remains with the Petitioner and compensation has not been paid.

4. A counter affidavit has been filed on behalf of the LAC, where it is averred that “possession of the land of the Petitioner was taken by the authorities but compensation has not been paid to the recorded owner”. It is averred that the subject land of the Petitioner stands acquired and the Petitioner’s case does not fall within the four corners of Section 24 (2) of the 2013 Act.

5. No rejoinder has been filed on behalf of the Petitioner to the counter affidavit of the LAC. Be that as it may, the assertion of the Petitioner that she continues to remain in possession and has not been paid compensation gives rise to disputed questions of fact. The fact further remains that there is no explanation advanced anywhere in the petition for the inordinate delay in approaching the Court for relief.

6. 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.”

7. 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).

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

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019

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