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

+ **W.P.(C) 2560/2016**

RANBIR SINGH & ORS. Petitioner

Through: Mr. N. Prabhakar, Advocate

versus

LIEUTENANT GOVERNOR OF DELHI & ORS. Respondents

Through: Ms. Mrinalini Sen, Ms. Kritika Gupta
for R3/DDA.

Mr. Yeeshu Jain, Standing Counsel
and Ms. Jyoti Tyagi for L&B/LAC.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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04.02.2019

1. The prayers in the petition read as under:

“a. Issue a writ in the nature of certiorari/declaratory writ quashing the acquisition proceedings culminating in the award number 4/1977-78 dated 30th of May 1977 under the erstwhile Land Acquisition Act 1894 with respect to the agricultural land measuring 3 Bighas and 03 Biswas, to the extent of ½, originally belonging to the predecessor in interest of the petitioners) and falling in the khasra numbers 661/482 (02 Bighas and 13 Biswas), 483 (10 Biswas), in the village Lado Sarai, New Delhi and declaring the acquisition of the aforesaid land as having lapsed in terms of the section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013;

b. And issue a writ of mandamus/in the nature of mandamus or any suitable directions to the respondents to issue a fresh notification for acquisition of the aforesaid land in accordance with the provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013 and awarding

compensation in terms thereof;

c. Or in the alternative, issue a writ of mandamus/in the nature of mandamus or any suitable directions to restore the actual physical possession of the land as described in the prayer clause 'a' above in favor of the petitioners after making adjustment of the land measuring 03 Bighas and 03 Biswas falling in the khasra numbers 661/482 and 483 in the Village Lado Sarai;

d. pass any other order/suitable directions as this Honorable court deems just and appropriate in the facts and circumstances of the case.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 13th November 1959, followed by declaration under Section 6 of the LAA on 16th May 1966. The impugned Award No. 4/1977-78 was passed on 30th May 1977. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No.661/482(2-13) and 483(0-10) was taken and handed over to the beneficiary department on 22nd July 1977 which is also an admitted fact in Para 6 of the petition. It is also submitted that the Petitioners have not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted in Para 9 of the counter-affidavit that:

“9. That the petitioner has himself admitted that the recorded owner Sh. Khazan Singh (Half Share) was an unmarried person and had died intestate in the year 1967. It is submitted that no legal heir as per section 50 of DLR Act, 1954 approached the office of LAC in the past 37 years for claiming the compensation. Therefore, the amount of compensation i.e. a sum of Rs. 15,927.56 in the name of Sh. Khajan Singh (half

share) out of the total amount of compensation Rs.31,855.13 was directed to be retained in the Revenue Deposit.”

4. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra No. 661/482(2-13), 483(0-10) was “acquired for public purpose for the planned development of Delhi. The physical possession of this land was handed over to the DDA by LAC on 22nd July 1977.

5. No rejoinder has been filed to the counter-affidavit of the DDA. The rejoinder filed by the Petitioners to the counter affidavit of LAC reiterates the averments in the petition. On the aspect of compensation, the Petitioners claim that they have not received any compensation. It is *inter alia* contended:

“3. There had been no dispute in so far as the compensation in respect of the land belonging to the deceased predecessor in interest is concerned. The dispute pertained to only the other half share of the total land which belonged, once upon a time, to the father of the petitioners. Recourse may be had to Annexure P-1, i.e. Jamabandi for the year 1964-65 which shows the petitioner's father being an equal shareholder with Khazan Singh. It was this land which had been transferred to Delhi Housing and Land Development Corporation to the extent of 40/126 share and to DLF Housing construction private limited to the extent of 23/126 share. Since Delhi Housing and Land Development Corporation had sold 40/126 part of the land transferred to it to two persons by way of registered sale deeds and had also executed a lease deed for 30 years in favour of one Devender Kumar, there was a problem of apportionment of compensation in respect of this portion only. There was no dispute in respect of one half share of land belonging to Khazan Singh. Therefore, the Land Acquisition Collector was duty bound to comply with section 31 of the land acquisition act 1894 by tendering and paying compensation to the legal heirs of Khazan Singh.”

6. It is contended by the Petitioners that while granting compensation the principle to be followed is not "come and get" but "go and give". The fact remains that the Petitioners took no steps to follow up with the LAC and claim compensation after the Award was passed in 1977, more than four decades ago. Both on the issue of possession as well as compensation, the pleadings give rise to disputed questions of fact which cannot possibly be examined in the present petition. In any event, the Petitioner has not been able to explain the extraordinary delay in approaching the court for relief.

7. 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.”

8. The above observations have been reiterated in the judgment of the three Judge Bench in *Indore Development Authority v. Shailendra (2018) 3 SCC*

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“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/negatived, 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. The above observations have been followed by this Court in several cases including the order dated 10th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and petitions seeking similar relief have been dismissed on the ground of laches.

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.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 4, 2019

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