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

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+ **W.P. (C) 2354/2017**

ANIL JAIN

..... Petitioner

Through: Mr Vivek Sandhu, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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11.02.2019

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

“a. Issue a Writ of Certiorari/Mandamus or any other writ/directions/orders thereby granting benefit under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to the petitioner thereby declaring that the acquisition proceedings under land acquisition act, 1894 in respect of land 19 biswa comprised in Khasra no.670 (Min) situated at Village Bhalswa Jahangirpur, Delhi, has been lapsed.

b. Issue a writ, directing the respondents not to in any manner whatsoever; interfere with the peaceful enjoyment and possession No.670 (min) situated in the revenue estate of Village Bhalaswa Jahangirpuri Delhi, till the disposal of the writ petition, in the interest of justice;

Pass any other order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case in favour of the petitioner and against the respondents.”

2. According to the narration in the petition, it is seen that notification under

Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued on 4th March 2003 followed by declaration under Section 6 LAA on 4th February 2004. The impugned Award No.24/2005-2006/DC/(N-W) was passed on 3rd February 2006. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and that since compensation for the subject lands has not been paid nor physical possession taken, the acquisition proceedings in respect of the subject lands stand lapsed. There is no explanation for the delay in approaching the Court for relief.

3. In the counter-affidavit filed by the Delhi Urban Shelter Improvement Board (hereinafter 'DUSIB'/Respondent Nos.4 and 5), it is submitted that the land in question, measuring 1 Bigha forms part of Khasra No.670 min was acquired subsequent to the Award No.24/05-06. Actual physical possession of the land was transferred to DUSIB by the L&B Department on 26th April 2008 and the same is "under the jurisdiction of the E.E/CC-II, DUSIB for a part of the planned development of Delhi i.e. the putting up of Rehabilitation of J.J Colony, Bhalswa." As regards compensation, it is stated that a sum of Rs.14,14,00,000/- was released by DUSIB through the Secretary, L&B Department, by cheque No.376843 dated 10th September 2007. It is stated that the land vests with the Respondents free from all encumbrances and the petition is liable to be dismissed as the acquisition proceedings have attained finality and the Petitioners claim has no merit.

4. In a short counter-affidavit filed by the LAC, it is submitted that subsequent to the notification and declaration under Sections 4 and 6 of the LAA respectively, the Award No.24/05-06 was passed on 3rd February 2006. It is then stated that "vacant physical possession of the subject land falling in khasra number 670 min

total admeasuring (4-12) was duly taken on the spot on 26.4.2008 land was handed over to the requisition agency on the spot by preparing possession proceedings, however petitioner is having 1/4th share that is measuring 0-19 biswa for which the compensation could not be paid because of objection shown in Statement 'A'."

5. The Petitioner has filed rejoinders to the counter-affidavits of both the LAC as well as DUSIB. In the rejoinder to affidavit of the LAC, it is denied that physical possession of the subject land was taken on 26th April 2008. It is submitted that the said land is under the peaceful physical possession of the Petitioner and that it is being used for cultivation since the land was purchased. It is stated that no compensation was received from the Respondents. In the rejoinder to the affidavit filed by DUSIB, it is again denied that physical possession of the land was transferred to DUSIB by the L&B Department on 26th April 2008 or that the same is under the jurisdiction of E.E/CC-II, DUSIB. It is further denied that the Respondents have already released a sum of Rs.14,14,00,000/- towards the cost of acquisition. It is denied that the land vests with the Government free from all encumbrances or that the Petitioner has no right, title or interest in the land in question.

6. The assertions by the Petitioner as regards compensation, possession and the current status of the land give rise to disputed questions of fact, which cannot be examined in the present petition. The fact further remains that the Petitioner has no explanation to offer for the delay in approaching the Court for the relief, in respect of an Award that was passed way back in 2006.

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 decision has been re-affirmed by the judgment of a three Judge Bench of the Supreme Court 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 negated 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 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 orders including the order dated 17th January, 2019 in WP(C) No. 4528/2015 (***Mool Chand v. Union of India***) and similar petitions 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. The interim order dated 15th March 2017 as confirmed on 19th February 2018 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 11, 2019

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