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

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+ **W.P.(C) 2429/2017**

HANS KUMAR GUPTA (HUF) & ANR Petitioners

Through: Mr Vidit Gupta, Advocate.

versus

GOVERNMENT OF NCT OF DELHI AND ANR Respondents

Through: Mr Arun Birbal, Advocate for DDA.
Mr Sachin Nawani, Advocate for R-1.
Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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04.02.2019

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

- (i) Issue a writ of mandamus or any other writ/order of the like nature thereby directing that acquisition of the land in respect of land measuring 12 Bighas and 15 Biswas bearing Mustatil No. 32, Killa No. 6(4-16), 7(4-16) and 8(3-03) alongwith farm house, tube-well, with all fixtures and fittings attached thereto situated in the area of Village Holambi Kalan, Delhi acquired vide Award No.16/03-04 under section 11 of the Land Acquisition Act, 1894 published by the Land Acquisition Collector, Delhi, is lapsed by allowing the petition of the petitioners, in the interest of justice; And/or
- (ii) Any other relief that this Hon'ble Court may deem fit in

the facts and circumstances of the present case may also be granted in petitioners' favour, in interest of justice.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd May, 2002, followed by declaration under Section 6 LAA on 17th December, 2002. The impugned Award No.16/03-04 was passed by the Land Acquisition Collector (‘LAC’) on 1st October, 2003.

3. The Petitioners state that only paper possession was taken of the subject land on 13th June, 2003. They claimed that the actual physical possession of the land in question still remains with the Petitioners. The Petitioners, however, do not dispute that they have received compensation.

4. There is no explanation in the petition for the delay in Petitioners approaching the Court for reliefs, except to state that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) was enacted on 1st January 2014 and that the Petitioners are entitled to seek relief of declaration of the deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act.

5. A counter affidavit has been filed by the DDA on 16th January, 2018, *inter alia*, stating therein that the actual physical possession of the land was taken and handed over by the LAC to the DDA on 13th June, 2003 “after demolition of construction existing on the spot if, any”. A copy of the possession proceedings has been enclosed as Annexure-A. A separate

counter affidavit has been filed by the Additional District Magistrate (North), again confirming that the actual physical possession was taken over and handed over to the DDA on 13th June, 2003 itself.

6. A rejoinder affidavit has been filed by the Petitioners disputing the above assertions of the DDA and the LAC. Consequently, on the issue of possession, the pleadings in the present case give rise to disputed questions of facts which possibly cannot be examined in the present petition.

7. In any event, the petition is clearly barred by laches with the award having been made way back in 2003 itself. 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. This has been affirmed by the subsequent 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 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 10th 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. Consequently, the petition is dismissed on account of laches. No costs.

11. The interim order passed on 11th April, 2017 which stood confirmed on 22nd January, 2018 hereby stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 04, 2019

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