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

+ **W.P.(C) 3311/2016**

NARESH KUMAR

.... Petitioner

Through: Mr. Nishant, Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Yeeshu Jain with Ms. Jyoti Tyagi,
Advocates or LAC
Ms. Rukmini Bobde, Mr. Nilesh Kumar and
Ms. Prachi, Advocates for DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

19.07.2019

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

“(I) Issue writ of declaration and/or any other appropriate Writ, Order or Direction in the like nature declaring the impugned acquisition proceedings commenced vide notification under Section 4 of LA Act 1894 bearing notification F.II (17)/91/L&B/LA/6518 Dated 28.4.1995 and notification under Section 6 of LA Act, 1894 Notification No. F.II (17)/91/L&B/LA dated 26.4.1996 and resulting in Award no. 1/98-99 vis-a-vis land measuring 1 Bigha in Khasra No. 298 & 303 situate in revenue estate of Village Shahbad Daulapur, Delhi stands lapsed;

(II) Consequently issue writ of certiorari quashing the impugned acquisition proceedings commenced vide notification F.II (17)/91/L&B/LA/6518 Dated 28.4.1995 and notification under

Section 6 of LA Act, 1894 Notification No. F. 77 dated 26.4.1996 and resulting in Award no. 1/98-99 vis-a-vis land measuring 1 Bigha in Khasra No. 298 & 303 situate in revenue estate of Village Shahbad Daulapur, Delhi stands lapsed;

(III) Issue mandamus and/or any other Writ, Order or direction in the in the like nature commanding the respondents not to interfere with and/or obstruct the petitioners in peaceful enjoyment of the subject land i.e. admeasuring 1 Bigha in Khasra No. 298 & 303 situate in revenue estate of Village Sahibabad Daulatpur, Delhi.”

2. The background facts are that the land in question i.e. 1 *Bigha* in Khasra No. 298 and 303 situated in the revenue estate of Village Shahbad Daulatpur (hereinafter, ‘subject land’) was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 28th April, 1995 for the “public purpose of the Rohini Residential Scheme”. This was followed by a declaration under Section 6 of the LAA on 26th April, 1996. The Land Acquisition Collector (‘LAC’) passed an Award No. 1/98-99 on 24th April, 1998.

3. It is stated in the petition that the Petitioner purchased the subject land from one Shri Gurdas Singh by way of a sale deed dated 8th February, 1985. A copy of the sale deed has been annexed to the petition. It is further averred that the Petitioner continues to be in possession of the subject land and that compensation in respect thereof has not been paid to the Petitioner. In respect of compensation, it is further averred that a “majority of the landowners in the village whose lands are covered by impugned acquisition notification” have not been paid compensation and continue to be in possession. Thereafter, the petition refers to the passage 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) thereof on the ground that possession of the land continues to be with the Petitioner and compensation has not been paid to him.

4. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit filed by the LAC, it is averred that the Petitioner has not "filed the complete chain of documents" to be able to claim relief in respect of the subject land. It is further averred that the revenue records do not reflect the names of either the Petitioner or Shri Gurdas Singh, but that of other persons, including the *Gram Sabha*. It is averred that possession of the land bearing Khasra No. 303 (8-00) was taken on 13th January, 1991 and possession of the remainder of the land was taken on 29th August, 2012 and handed over to the DDA. It is stated that possession of the land bearing Khasra No. 298 could not be taken. It is stated that compensation as regards Khasra No. 303 was paid to the recorded owners, while compensation for the acquisition of Khasra No. 298 was not paid. It is averred that it is not for the Petitioner to contend that compensation was not paid as he did not get his name mutated in the revenue record.

5. In the counter affidavit filed by the DDA, it is averred that the subject land was acquired for the purpose of the Rohini Residential Scheme-Phase IV. It is further averred that possession of Khasra No. 298 (3-00) was taken on 13th March, 1997 and handed over to the DDA. It is stated that possession of the remainder of the subject land could not be handed over to the DDA

due to existence of slums on the said land. A copy of the possession proceedings has been annexed with the petition. It is also averred that compensation in terms of the impugned award i.e. Rs. 12 Crores was deposited by the DDA through Cheque nos. 904178 and 020853 dated 11th January, 1995 and 4th April, 1996 respectively. Reference has also been made to the orders of the Hon'ble Supreme Court in ***Rahul Gupta v. DDA*** [SLP (C) Nos. 16385-16388 of 2012]. No rejoinder has been filed on behalf of the Petitioner to the counter affidavit of the LAC or the DDA.

6. From a perusal of the impugned Award pertaining to the subject land and the counter affidavits of the LAC/L&B Department and the DDA, it emerges that the subject land was acquired for the purpose of the Rohini Residential Scheme. If in terms of the impugned Award, the land was acquired for public purposes of the Rohini Residential Scheme, then by virtue of the order dated 18th October 2016 of the Supreme Court of India in SLP (C) Nos. 16385-16388 of 2012 (***Rahul Gupta v. DDA***) even if on the date of the said order of the Supreme Court, actual physical possession was not with the DDA, if such physical possession was not handed over to the DDA within ten days thereafter, the DDA would be deemed to be in possession of the lands in question. Therefore, the Petitioner cannot any longer contend that he continues to be in possession.

7. The contention of the Petitioner that he is entitled to compensation gives rise to a disputed question of fact in light of the stand of the Respondents in their pleadings. This cannot possibly be examined in this petition. The fact further remains that the Petitioner has not advanced any explanation in the

petition 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** it was observed by a three Judge Bench of the Supreme Court 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.”

8. 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)**.

9. For the aforementioned, the writ petition is dismissed, but in the circumstances with no order as to costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 19, 2019
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