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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 3626/2018 & CM APPL. 34504/2019

KISHAN ARORA AND ORS.

.... Petitioners

Through: Mr. Dhananjai Rana,
Advocate

Versus

UNION OF INDIA AND ORS.

... Respondents

Through: Mr. Mohit Chaudhary and
Mr. Anup Kumar Mishra, Advocates
for Respondent No. 3.

Mr. Jagdeep Kr. Sharma, ASC for
DDA with Mr. Anirudh Mehrotra,
Advocate.

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

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
01.08.2019

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

“a) Issue appropriate writ or any other order or direction thereby directing the Respondent No. 1 to 4 to compensate the petitioners in respect of their land measuring 5 Bighas 2 Biswas, falling in khasra No. 5034/829/2, 5035/829 MIN and 831, situated in village Chandrawali @ shahdara, Delhi in accordance with the provisions of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013".

b) Issue order or direction declaring the entire acquisition proceedings to have been lapsed in view of section 24(2) of the Act and the award to be a non-existent one in view of the submission made in the petition”

2. The background facts are that the land in question i.e. *5 Bighas 2 Biswas* in Khasra Nos. 5034/829/2, 5035/829 MIN and 831, situated in Village Chandrawali, Shahdara, Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 13th November, 1959. This was followed by a declaration under Section 6 of the LAA dated 1st November, 1966. The Land Acquisition Collector (‘LAC’) passed an award being Award No.09/79-80 on 20th September, 1968.

3. As far as the Petitioners are concerned, it is stated in the petition that the name of one Harbanslal Arora was recorded in the revenue record. It is averred that Harbanslal Arora died in 1994 leaving behind two sons, namely, Sant Kumar Arora and Late Sham Sundar Arora. It is stated that Sham Sundar Arora died leaving behind his sons Samarath Sagar Arora and Toni Sagar Arora, who died without leaving any heirs. Sant Kumar Arora and Samarath have been impleaded in the present petition as Respondent Nos. 5 and 6. It is averred that the petition has been filed by Shri Sunny Arora and Shri Ashish Arora, who are the Special Power of Attorney (‘SPA’) holders of Petitioner No. 1 and 2 and Petitioner Nos. 3 and 4 respectively. It is averred that the Shri Sunny Arora and Shri Ashish Arora are filing the present petition on behalf of the Petitioners as the “Petitioners will not be able to appear and plead regularly” before this Court. It is averred that the Petitioners are the legal heirs of Harbanslal Arora and that

this is apparent from the family tree, annexed and marked as Annexure A/2 with the petition.

4. It is averred in the writ petition that the Harbanslal Arora filed a civil suit for perpetual injunction [C.S. (OS) 421/81] for restraining the Respondent Nos. 1 to 4 from taking possession of the subject land. It is averred that another notification being notification No. F.4 (19)/65-L&H(i) was published on 2nd August, 1968 deleting the “Khasras in question”. A copy of the said notification has been annexed with the petition. It is averred that the impugned award was passed in violation of the aforesaid notification. It is averred that by another award being Award No. 109/86-87 which was passed on 19th September, 1986, the land bearing the deleted Khasra Nos. was again acquired. It is further averred that on 20th March, 2002 Harbanslal Arora withdrew the suit that he had filed in 1981 as there was no “apprehension of dispossession”.

5. It is averred that despite the fact that an Award was passed and possession taken, no compensation was paid or tendered to the Petitioners at any point of time. It is stated that till 2014, the Petitioners were in actual physical possession of the subject land. Reference has been made to the order of this Court in *Tarun Pal Singh v. Lt. Governor (2015) SCC OnLine Del 9789*. Thereafter, the petition refers to the enactment of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and the Petitioner’s entitlement to a declaration of deemed lapsing under Section 24 (2) on the ground that compensation has not been paid to the Petitioners till date.

6. The assertion of the Petitioners that they have not been paid compensation gives rise to a disputed question of fact, which cannot be examined in the present petition. As explained recently by this Court in its decision dated 26th July 2019 in W.P. (C) 7798 of 2015 (***Randhawa Singh v. Union of India***), it is doubtful whether the remedy in terms of the proviso below Section 24 (2) of the 2013 Act, even assuming it is also a proviso to Section 24 (1) (b) thereof, would be available to the Petitioners. This question is pending consideration before a larger Bench of the Supreme Court on account of the correctness of the decision in ***Delhi Metro Rail Corporation Limited v. Tarun Pal Singh (2018) 14 SCC 161*** (reversing this Court's aforementioned decision) being doubted by another Bench of that Court in ***Delhi Development Authority v. Virender Lal Bahri (2019) SCC online SC 279***]. However, even assuming that such remedy is available it presupposes there being no dispute about the entitlement of the Petitioners to compensation and a further admission by the Respondents of non-deposit of the compensation amount. There is no such admission forthcoming in the present case.

7. The fact further remains that the Petitioners have no explanation to offer 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*** 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.”

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 reasons, the writ petition is dismissed. The application is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 01, 2019/abc