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

+ **W.P.(C) 2702/2016**

MOHD. MIAN THROUGH: HIS GPA HOLDER ..... Petitioner

Through: Mr. Bahar Ur. Barki, Advocate with  
Mr. M.K. Khan and Mr. Chander  
Bhan, Advocates.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr. Prasanta Varma, Senior Central  
Govt. Counsel and Ms. Shalu  
Goswami, Advocate for UOI.  
Mr. Pawan Mathur, Advocate for  
DDA.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

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**05.02.2019**

**SANJEEV NARULA, J.:**

1. In this Petition though there is no prayer sought for lapsing of the acquisition proceeding under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter 'the 2013 Act'), however the prayers are couched in a manner to achieve the same objective. The prayer clause reads as under:-

“a) pass appropriate writs, orders and/or directions in the nature of certiorari quashing section 4 Notification bearing No. F/15(24)57 dated 3.9.1957 and the acquisition proceedings, if any, in Old Khasra No 22, 149, 150 and 151 and now Khasra No. 1529 and 1945 Ali Ganj, Nehru Nagar, Lajpat Nagar, New Delhi Ali Ganj, Nehru Nagar, Lajpat Nagar, New Delhi;

b)pass appropriate writs, orders and/or directions in the nature of mandamus directing the Respondents not to claim any right, interest or title in Old Khasra No 22, 149, 150 and 151 and now Khasra No. 1529, 1530 and 1945 Ali Ganj, Nehru Nagar, Lajpat Nagar, New Delhi.

c) pass such other order(s) in the facts and circumstances of the case as this Hon’ble Court may deem fit, just and proper in favour of the Petitioner.”

2. The narration of the petition reveals that originally the land falling in khasra no. 22, 149, 150 and 151 of Village Kilokri, Balabgarh, District, Delhi belonged to the purported recorded owner- Mr. Anant Ram. It is stated that khasra nos. 22, 149, 150 and 151 of Village Kilokri, Balabgarh, District, Delhi were changed and merged into khasra nos. 1529, 1530 and 1945 at Village Aliganj, Nehru Nagar, Lajpat Nagar, New Delhi. On the basis of the chain of sale-purchase documents, Petitioner claims to have purchased khasra nos. 1529, 1530 and 1945 at Village Aliganj, Nehru Nagar, Lajpat Nagar, New Delhi, from Mr. Chaman Miyan S/o Raziuddin Sheikh by way of Power of Attorney, Agreement to Sell, Receipt and Will, in the year 1967. Since then Petitioner claims to hold possession and ownership over the subject land. It is further stated that in response to Petitioner’s RTI

application Land and Building Department responded that, in respect of khasra nos. 141/2 (0-18), 150 (06-18) and 151 (06-07), a notification under section 4 of the Land Acquisition Act, 1894 (hereinafter 'LAA') was issued on 3<sup>rd</sup> September 1957, followed by a declaration under 6 of the LAA, dated 16<sup>th</sup> March 1961 and an Award no. 1152. Petitioner further claims that in respect of khasra no. 22 no acquisition proceedings have been initiated by the appropriate authority till date.

3. Petitioner claims that neither possession of the subject land has been taken nor compensation has been paid to the recorded owners/Petitioner. Hence he would be entitled to a declaration under section 24(2) of the 2013 Act as pleaded in para 2(vii to xv) of the petition.

4. The Land Acquisition Collector (LAC) in its counter affidavit has affirmed that lands of village Kilokari, were notified vide Notification under section 4 of LAA, dated 3<sup>rd</sup> September 1957 followed by a declaration under section 6 of the LAA, dated 16<sup>th</sup> March 1961 and an Award no. 1152. Further it is stated that physical possession of the land falling in khasra nos. 149/2(00-18), 150 (06-18), 151 (06-07) was taken on 4<sup>th</sup> August, 1961 and handed over to the beneficiary department- Land and Housing Department (L&H). As per the Naksha Muntazamin, three khasra numbers were changed and relevant details w.r.t payment of compensation for the above noted acquisition proceedings to the recorded owners has been provided as under:-

|                                                            |                                                                             |                                                                      |
|------------------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------|
| Old k no.22,149, 150 and 151<br>and now k no.1529,1530 and | Possession taken of Khasra<br>No.149/2(00-18),150(06-<br>18), 151(06-07) on | As Per Payment File no.<br>1152 of Village<br>Kilokari, Shumar No.SO |
|------------------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------|

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| 1945. Aliganj, Nehru Place | <p>04/08/1961 handed over to L&amp; H.As per Naksha Mutzamin Owner at</p> <p>(1) Shumar No.SO Smt. Angoori widow of Jiwan, Share 5/16.</p> <p>(2) Shumar No.51 Net Ram s/o Lekhram, Share 4/16.</p> <p>(3) Shumar No.52 Chajjan s/o Govind, Share 1/16.</p> <p>(4) Shumar No.53 Smt. Kasturi widow of Antram, Share 1/16.</p> <p>(5) Shumar No.54 Duli Chand s/o Birbal, Share 1/8.</p> <p>(6) Shumar No.55 Bal Mukund s/o chajjan. Share 1/8.</p> <p>(7) Shumar No.56 Hetrams/o Antram, Share 1/16 in Khasra No. 149/2(00-18),150(06-18),151(06-07).</p> | <p>to 56 Compensation was paid details are given below.</p> <p>1) Shumar No.50 Smt. Angoori widow of Jiwan, Anit:12257.38 Cheque No.701185 on 23/06/61.</p> <p>2)Shumar No.51 Net Ram s/o Lekhram, Amt:9805.91 Cheque No.143920 sent to ADJ on 21/05/61.</p> <p>3)Shumar No.52 Chajjan s/o Govind, Amt:2451.48 Cheque No.701186 on 23/06.</p> <p>4)Shumar No.53 Smt. Kasturi widow of Antram, Amt:2451.48 Cheque No.701187 on 23/06.</p> <p>5)Shumar No.54 Duli Chand s/o Birbal, Amt:2451.48 Cheque No.701188 on23/06.</p> <p>6)Shumar No.55 Bal Mukund s/o chajjan, Amt;2451.48 Cheque -No.701189 on 23/06.</p> <p>7)Shumar No.56 Hetram s/o Antram, Amt:2451.48 on 23/06.</p> |
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5. DDA in its counter affidavit has stated that the present petition is liable to be dismissed *in limine*, for not annexing the relevant records of the land acquisition proceedings that have been challenged herein. DDA has disputed

Petitioner's claim in respect of change and merger of khasra nos. 22, 149, 150 and 151 of Village Kilokri, Balabgarh, Delhi into khasra nos. 1529, 1530 and 1945 at Village Aliganj, Nehru Nagar, Lajpat Nagar, New Delhi. Further DDA has annexed relevant records (Khatoni) to submit that land falling in Khasra No. 1529(4-13), 1530 (7-14) situated in the Revenue Estate of Village Aliganj is recorded as Government Land, belonging to L&DO, while the land falling in Khasra No. 1945 (116-16) situated in Revenue Estate of Village Aliganj, is recorded as Government Land in the name of "Joint Water Works Sewage Board". It is stated that on 2<sup>nd</sup> September 1982 DDA the land falling in Khasra no. 1529 and 1530 was transferred to the DDA by the Ministry of Rehabilitation in the year 1982 and DDA continues to hold possession over the same till date. Hence the question of land falling in village Aliganj, Nehru Nagar, Lajpat Nagar, being acquired by the land acquisition proceedings of 1957-1961 in respect of land falling in Village Kilokri, Balabgarh, does not arise.

6. Further it is stated that Petitioner has purchased the land by way of Power of attorney and other unregistered documents which do not confer any right or title to the Petitioner in light of the decision of the Supreme Court in the case of *Suraj Lamp and Industries Private ltd v State of Haryana, (2012) 1 SCC 656*. It is also stated that the petition is barred by delay and laches for failure of the Petitioners to challenge the acquisition proceedings for several years. Extensive reliance has been placed on the decision of *Indore Development Authority v. Shailendra, (2018) 3 SCC 412* and *Mahavir v.*

*Union of India (2018) 3 SCC 588*, to state that Section 24(2) of the 2013 Act, cannot be used to revive stale and dead claims.

7. Petitioner in its rejoinder to the counter affidavit of LAC has denied that physical possession of khasra nos. 149/2(00-18), 150 (06-18), 151 (06-07) was taken on 4<sup>th</sup> August, 1961 and handed over to the beneficiary department and compensation was paid to the recorded owners. It is further submitted that in the year 1927 the old Khasra nos. i.e. 22, 149, 150, 151 of Village Kilokari, Tehsil Ballabgarh were merged and were allotted khasra nos. 1529, 1530 and 1945 in Village Aliganj, Nehru Nagar, Lajpat Nagar, New Delhi.

8. Petitioners has not stated what further steps have been taken by him in this regard, hence, the question of Petitioner being in possession of the land in question becomes a disputed question of fact, which cannot be dealt with by way of the present petition for the reasons mentioned hereinafter.

9. This petition has been filed invoking the extraordinary power of the Court under Article 226 of the Constitution of India. It is a settled position of law that this Court, in the exercise of Writ Jurisdiction, does not delve into disputed question of rights and title of the parties. Thus matters in which disputed questions of fact are involved, cannot be decided in a summary proceeding based solely on the pleadings of the parties. Such disputed matters must be decided by the Civil Courts after recording of due evidence in the matter.

10. There is no explanation whatsoever offered in the petition for the inordinate delay in coming forward to file the present petition. The acquisition proceedings in respect of the subject land were conducted in the year 1957-1961, whereas the present petition has been filed after more than six decades and no other steps have been taken by the Petitioners. The petition is obviously barred by laches.

11. In *Mahavir v. Union of India* (2018) 3 SCC 588, the Supreme Court held 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.”

12. The aforesaid Judgment has been considered by the Supreme Court in the decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“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 W.P.(C) Nos. 946/2017 & 948/2017 Page 5 of 7 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 W.P.(C) Nos. 946/2017 & 948/2017 Page 6 of 7 would be received or entertained by the courts.”

13. This court has on the basis of its decision dated 17<sup>th</sup> January 2019 in W.P (C) 4528 of 2015 (*Mool Chand v. Union of India*), dismissed similar petitions seeking a declaration under Section 24(2) of the 2013 Act, on the ground of delay and laches.

14. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the Court dismisses the present petition both on the ground of laches as well as merits. The interim stay

granted by this Court in its order dated 8<sup>th</sup> of April, 2016 which stood confirmed by the order dated 14<sup>th</sup> November, 2017 stands vacated.

**SANJEEV NARULA, J.**

**S.MURALIDHAR, J.**

**FEBRUARY 05, 2019**  
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