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

+ **W.P. (C) 2809/2016**

RANBIR SINGH AND ORS.Petitioners

Through: Mr.Soumya Das, Advocate.

Versus

LIEUTENANT GOVERNOR OF DELHI AND ORS. ...Respondents

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

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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09.07.2019

1. The prayers in the present petition are:

“a. Issue a writ in the nature of certiorari/ declaration that the acquisition proceedings with respect to the agricultural land in khasra no. 333 (3 Bighas 11 Biswas), in the Village Ladha Sarai have lapsed in terms of the section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013;

b. issue a writ of mandamus or any suitable directions to the respondents to restore the actual physical possession of the subject land in favour of the petitioners and make appropriate changes in the revenue record;

c. Or in the alternative issue a writ in the nature of mandamus to issue fresh notification for the acquisition of land and award compensation to the petitioners in terms of the provisions of the New Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.”

2. The background facts are that the land in question i.e. 3 *Bighas* 11 *Biswas* in Khasra No. 333 in the village Ladha Sarai (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 23rd January, 1965. This was followed by a declaration under Section 6 of the LAA issued on 6th January, 1969. The Land Acquisition Collector (LAC) passed an Award No. 31/86-87 on 19th September, 1986.

3. As far as the Petitioners are concerned, it is stated in the writ petition that the Petitioners are the Class I legal heirs of one Khayali Ram, "who acquired all the interest in the subject land in terms of Section 85 of the Delhi Land Reforms Act." It is contended that only paper possession of the subject land was taken on 22nd September, 1986. It was averred that compensation in respect of the subject land was not paid to the Petitioners' predecessor-in-interest or the Petitioners. It is also stated that the land in question is lying vacant and unutilized. 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 the Petitioners' entitlement to a declaration of deemed lapsing under Section 24 (2) of the 2013 Act on the ground that physical possession had not been taken and compensation not paid.

4. In the counter affidavit filed on behalf of the DDA, it is averred that physical possession of the subject land was taken and handed over to the DDA by the LAC/L&B Department on 22nd September, 1986. It is further averred that compensation in respect of the Award

No. 31/86-87 was sent by the DDA to the L&B Department by way of a cheque No.0018462 dated 27th January, 1986. It is also stated that the Award of the Land Acquisition Collector ('LAC') had recorded that the subject land belonged to the Government and that, as such, the Petitioners were trespassers and not entitled to any compensation.

5. In the counter affidavit filed by the LAC, it is averred that possession of the subject land was duly taken and handed over to the DDA on 22nd September, 1986. It is further stated that the recorded owner of the subject land is not the Petitioner but the Central Government.

6. The Petitioners have not filed a rejoinder to either the counter affidavit of the LAC or the DDA. In any event, the assertion of the Petitioners that the physical possession of the land has not been taken and compensation not paid gives rise to disputed questions of fact which cannot be examined in these proceedings. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

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 was reaffirmed by the judgment of the 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 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/negatived, 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. 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* (*supra*) regarding the tendering of compensation, and on certain other issues but 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 *Mool Chand v. Union of India* 2019 (173) DRJ 595 DB.

10. For the aforementioned reasons, the writ petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

July 09, 2019/abc