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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 4885/2018

COL. BHIM SINGH RAO & ORS.

.... Petitioners

Through: Mr. Kamal Katyanand Ms. Sapna
NirwanKatyan, Advocates

versus

LAND ACQUISITION COLLECTOR & ORS.

.... Respondents

Through: Mr. Yeeshu Jain along with Ms. Jyoti Tyagi,
Advocates for LAC.
Mr. Jagdeep Kumar Sharma, ASC for DDA
with Ms. Anirudh Mehrotra

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 a writ of certiorari or any other appropriate writ/order/direction calling for the records of the acquisition proceedings in respect of the land comprised in Khasra No. 251 (0-4), 413/260 (2-5), 414/260 (0-17), 423/260(3-2), 424/260 (9-0), 425/260 (8-18), 455/1/264 (1-19), 472/266 (7-11), 466/267 (1-16), 486/261 (4-5), 455/265 (5-13) and 456/265 (9-19), total land ad-measuring 55 Bighas 09 Biswas situated in the revenue village of Jogabai, New Delhi; and

ii. Issue, further, any appropriate writ/order/direction, declaring the acquisition proceedings of the award No. 19/92-93 dated 19/06/1992, in respect of the land comprised in Khasra No. 251(0-4), 413/260 (2-5), 414/260 (0-17), 423/260(3-2), 424/260 (9-0), 425/260(8-18),

455/1/264 (1-19), 472/266 (7-11), 466/267 (1-16), 486/261 (4-5), 455/265 (5-13) and 456/265 (9-19), total land admeasuring 55 Bighas 09 Biswas situated in the revenue village of Jogabai, New Delhi, being lapsed and have become inoperative after the coming into force 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. 55 *Bighas* 9 *Biswas* in Khasra Nos. 251 (0-4), 413/260 (2-5), 414/260 (0-17), 423/260(3-2), 424/260 (9-0), 425/260(8-18), 455/1/264 (1-19), 472/266 (7-11), 466/267 (1-16), 486/261 (4-5), 455/265 (5-13) and 456/265 (9-19) situated in village Jogabai, New Delhi (hereinafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd June, 1989. This was followed by a declaration under Section 6 and 17(1) of the LAA on 22nd June, 1990. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 19/92-93 on 19th June, 1992.

3. As far as the Petitioners are concerned, it is stated in the petition that “the Petitioners, and prior to them their predecessors-in-interest, are/were the recorded owners and *bhumidars* of the subject land.” It is further stated that the Petitioners along with one Smt. Ashrafi Devi had filed a writ petition before this Court, being W.P.(C) 12026/2016 and that by way of order dated 30th January, 2018, the Court had dismissed the said petition as withdrawn, with liberty to file a fresh petition correcting the factual errors in the Khasra Numbers.

4. It is averred in the petition that physical possession of the subject land was not taken and that, as a result, possession continues to remain with the

Petitioners. It is also averred that the compensation has not been paid to the Petitioners thus far, and that the Petitioners from 1992 to 2016 have been pursuing their demand for payment of compensation diligently before the LAC, to no avail. Thereafter, the petition straightaway refers to the passage of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, 2013 ('2013 Act') and the Petitioners' entitlement to a declaration of deemed lapsing on the ground that possession of the land has not been taken and compensation not paid.

5. The Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the 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.”

6. 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).

7 For the aforementioned reasons, the writ petition is dismissed on the ground of laches. The interim order dated 8th May, 2018, as confirmed on 6th August, 2018, hereby stands vacated.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 19, 2019
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