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

+ **W.P.(C) 7722/2018**

BAHADUR SINGH & ORS. Petitioners

Through: Mr. Alok Kumar, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Manish Mohan, CGSC with Ms. Manisha Saroha for UOI.

Mr. Ajay Verma with Mr. Anirudh Sharma for DDA.

Mr. Biraja Mahapatra with Mr. Sumit Mishra for L&B/LAC

Mr. Ram Kumar for North DMC.

Mr. Mananjay Mishra for Delhi Administration.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **23.07.2019**

1. The prayers in the petition read as under:

“(a) declare the acquisition proceedings qua the award no.19/83/84 dated 04.07.1983 passed by LAC in respect of the land of the Petitioners have been lapsed by virtue of Section 24(2) of the 2013 Act;

(b) award costs of the writ in favor of the Petitioners and against the Respondents: and

(c) pass such other and further order as it may consider appropriate.”

2. The five Petitioners, who describe themselves as members of one family, state in the petition that initially the subject land was notified for

acquisition under the Land Acquisition Act, 1894 ('LAA') way back on 21st December 1911. According to the Petitioners, nothing was done pursuant to the said notification. Later on 24th October 1961 another notification seeking to acquire the very same subject land was issued under Section 4 of the LAA. This was followed by a declaration under Section 6 LAA issued on 7th December 1966. It is stated that when for several years no Award came to be passed, the Petitioners filed CWP No. 3545/1982 titled ***Om Prakash & Ors. v. Union of India*** in this Court seeking the lapsing of the proceedings. During pendency of these proceedings, the LAC passed the impugned Award No. 19/83-84 on 4th July 1983. It is stated that the said writ petition was thereafter referred to a Full Bench. Ultimately the said petition which was heard along with the batch of matters was dismissed in light of a judgment dated 14th December 1995 in CWP No. 701/1981 titled ***Roshnara Begum v. Union of India***. The Petitioners filed a SLP in Supreme Court which came to be dismissed by order dated 1st November 1996.

3. According to the Petitioners the above orders only decided whether delay in completion was fatal to the acquisition proceedings and not with the merits of such acquisition. The Petitioners state that they learnt of a decision dated 3rd February 1995 of this Court in Writ Petition No. 376/1973 titled ***Gulab Singh & Ors. v. Union of India*** which quashed the acquisition proceeding of the lands which were also covered in the earlier notification of 1911. On legal advice, therefore, the Petitioners started a second round of litigation by filing Civil Suit No. 146/04 in the civil Court for a declaration that the land acquisition proceedings were invalid. The learned trial Court by order dated 10th April 2004 rejected the plaint of the

Petitioners who then filed RFA No.538/2004 this Court. The said appeal came to be dismissed by this Court on 27th May 2005.

4. The Petitioners contend that although the Respondents claim that they took possession of the subject land on 7th June 2005, the Petitioners are still in possession thereof and that the Respondents only have symbolic possession. The Petitioners accordingly seek the relief of declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

5. It is seen that in the judgment dated 14th December 1995 passed by this Court dismissing CWP No.3545/1982 it was noted that the subject land has been acquired by the State for the benefit of the DDA and was encroached upon by unauthorized persons. The Award under challenge was passed under the LAA way back in 1983 i.e. almost 36 years ago. In the meanwhile the Petitioners have unsuccessfully challenged the said proceedings in two rounds of litigation with the orders passed therein against them attaining finality.

6. In the above background, the Petitioners are disentitled from invoking Section 24 (2) of the 2013 Act to seek relief for the third time. The fact further remains that after the challenge to the acquisition proceedings failed for the second time with the dismissal of their appeal by this Court on 27th May 2005 the Petitioners did nothing to further appeal against that order. They waited for thirteen years more to start the present round of litigation.

7. Mr. Alok Kumar, learned counsel for the Petitioners sought to point out that possession of the subject land was not taken by the Respondents in the manner required by law and, therefore, the statutory requirement under the LAA for the land to vest in the State was not fulfilled. He further submitted that the fresh cause of action to challenge the land acquisition proceedings did not arise till 1st January 2014 when the 2013 Act became operational and therefore, the present petition filed on 20th July 2018 cannot be said to be barred by laches.

8. The above submissions are without merit. This is the third round of litigation. The earlier two attempts at challenging the acquisition proceedings having failed, it would be a travesty to permit the Petitioners to commence a third round only because the 2013 Act has become effective from 1st January 2014. The Petitioners would still have to explain what they were doing for 13 long years since the dismissal of their appeal by this Court.

9. The following observations of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 would squarely apply to the facts on hand:

“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 negated 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 land owners/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 become 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.”

10. 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 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 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.

11. For the aforementioned reasons, the writ petition is dismissed on the ground of laches, but in the circumstances, with no orders as to costs.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019
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