

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 4053/2016

..... Petitioners

Through: Mr.Avijit Singh, Advocate.

GNCT OF DELHI AND ORS

..... Respondents

Through: Ms.Ruchika Rathi with Mr.Karanjot Singh Mainee, Advocates for R1 & R2.
Mr.Arun Birbal with Mr.Ajay Birbal, Advocates for DDA.

ORDER
22.01.2019

%

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

“a) Issue a writ of Mandamus or any other suitable writ, order or direction in the like nature thereby holding that the acquisition proceedings resulting from the Award No. 229/1986-&7 dated 19.09.1986 in respect of land of KHASRA NO. 243 (1-10) TOTAL AREA 01 BIGHAS & 10 BISWAS SITUATED IN THE REVENUE ESTATE OF VILLAGE BAHAPUR, DELHI is null, void and all subsequent proceedings conducted therein stood lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act 2013.

b) Direct the Respondent No.2 to release the aforesaid land comprised in KHASRA NO. 243 (1-10) TOTAL AREA 01 BIGHAS & 10 BISWAS SITUATED IN THE REVENUE ESTATE OF VILLAGE BAHAPUR, DELHI from the acquisition proceedings.”

2. According to the Petitioners, their predecessor-in-interest i.e. the father of Petitioner Nos. 1 and 2 and grand-father of Petitioner Nos.3 to 9 (Late Shri Prithvi Ram Sharma) was a recorded owner of the aforementioned agricultural land. He died in 1953. It is stated that while two of his sons died on 26th November 1970 and 8th November 2005, another died on 3rd August 2013. Accordingly, the Petitioners claim to have inherited the said land.

3. It is further stated that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued on 13th November 1959 followed by declaration under Section 6 of LAA on 23rd April 1969. The impugned Award No.229/1986-87 was passed on 19th September 1986.

4. The Petitioners claim that neither possession of the land was taken over nor compensation paid. Thereafter, the narration in the petition straightaway refers to the fact that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’) came into force on 1st January 2014. Accordingly, the Petitioners seek a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act.

5. Nowhere in the petition is any attempt made to explain the inordinate

delay in approaching the Court for relief.

6. A counter-affidavit has filed by the LAC on 7th February 2018 in which *inter alia* it is mentioned that physical possession of the land was taken on 22nd September 1986. It is stated that the compensation status is not available in the *Naksha Muntazamin* and the Statement 'A' is also not available in the record file.

7. The Delhi Development Authority (DDA) - Respondent No.3 has filed a separate counter-affidavit on 31st July 2018 raising a preliminary objection that the petition is barred by laches. The DDA confirming possession of the land in question was taken on 22nd July 1986 and was place at the disposal of the DDA by a notification under Section 22 (1) of DDA Act, 1957 dated 6th October 1986. Details of the compensation amount deposited by the DDA with the Land and Building (L&B) Department have also been given.

8. It must be mentioned that till date no rejoinder has been filed by the Petitioners to either of the counter-affidavits.

9. The petition is clearly barred by laches with the Petitioners offering no explanation for the delay of nearly 3 decades in approaching the Court for relief in respect of land acquisition proceedings in which the Award was passed way back in 1986.

10. 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.”

11. This has been affirmed by the subsequent judgment of the three Judge Bench in *Indore Development Authority vs. 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/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.”

12. It must be mentioned here that in its order 22nd February 2018 in SLP No.9798-99/2016 (*Indore Development Authority v. Shyam Verma*), the Constitution Bench of the Supreme Court did not refer the above issue of delay and laches to the larger bench. This legal position has been explained by this Court in its order dated 17th January 2019 in WP (C) 4528/2015

(Mool Chand v. Union of India).

13. Consequently, this petition is dismissed on the ground of laches.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 22, 2019

tr