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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3222/2016

RAJ SINGH

.... Petitioner

Through: Mr. Aakash
Sehrawat and Mr. Vishal
Maan, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.... Respondents

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

14.08.2019

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1. The prayer in the present petition reads as under:

“issue an appropriate writ, order or direction declaring the entire acquisition proceedings in respect of the land of the Petitioner measuring 21 *Bighas* 19 *Biswas* comprised in Old Khasra No. 1998/1152 having New Khasra No. 401 situated in Revenue Estate of Village Mehrauli, New Delhi, under the Land Acquisition Act, 1894 to have lapsed in view of Section 24(2) of 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. Old Khasra No. 1998/1152 now bearing New Khasra No. 401 ('subject land') admeasuring 21 *Bighas* 19 *Biswas* in the Revenue Estate of Village Mehrauli, New Delhi was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 23rd January, 1965 for the public purpose of "planned development of Delhi". This was followed by a declaration under Section 6 of the LAA dated 7th December, 1966. Thereafter, the Land Acquisition Collector ('LAC') made an Award No. 80E/1970-71 ('the Award') in 1970 under Section 11 of the LAA.

3. As far as the Petitioner is concerned, it is averred that the Petitioner is a co-owner of the subject land, which he inherited upon the passing away of his father and predecessor-in-interest Shri Rattan in 1975. It is stated by the Petitioner that since the subject land is undivided and he has an undivided interest over the entirety of the subject land, he has filed the instant petition for the benefit of all the co-owners of the subject land. It is submitted by the Petitioner that the possession of the subject land was taken over in 1981. However, it is submitted by the Petitioner that no compensation in respect of the subject land has been paid to either him or his predecessor-in-interest.

4. In the counter-affidavit of the LAC, it is averred that physical possession of the subject land was duly taken by way of Possession Proceedings dated 23rd September, 1981 and handed over to the requisitioning agency. It is further stated by the LAC that after possession of the subject land falling in Khasra No. 184 (1-15) was taken, the other co-sharers of the subject land applied for

release of compensation, which was duly paid. It is submitted by the LAC that the subject land being undivided and the Petitioner having undivided interest therein, the compensation tendered to the other co-owners implies that compensation has been tendered for the entirety of the subject land. Therefore, it is stated by the LAC that the writ petition is liable to be dismissed because the other co-owners have not been made parties herein.

5. No rejoinder has been filed by the Petitioner to the above counter affidavit. Averments regarding the payment of compensation in respect of the subject land raise disputed questions of fact which cannot be entertained by this Court. Be that as it may, the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for 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.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 14, 2019

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