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

Date of decision: 12th September 2019

+ W.P.(C) 4932/2018

AJIT SINGH YADAV

..... Petitioners

Through: Mr. Ghanshyam Mishra,
Ms. Sunaina Mishra and
Mr. Rajesh Mishra, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjay Kumar Pathak,
Ms. Kaomudi Kiran Pathak,
Mr. Sunil Kumar Jha and
Mr. M.S. Akhtar, Advocate for
R-LAC/L&B.
Ms. Mrinalini Sen, Standing
Counsel for DDA with
Mr. Tanmay Yadav, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

SANJEEV NARULA, J. (Oral):

1. Petitioner has filed the present writ petition, seeking a declaration under Section 24(2) of The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013(hereinafter as “the 2013 Act”) that, the land acquisition proceedings in respect of land at Khasra No. 215, Ad-measuring 4 Bighas 16 Biswas, Khasra No.221, Ad-measuring 4 Bighas 16 Biswas,

Khasra No. 222, Ad-measuring 4 Bighas 16 Biswas and Khasra No. 223, Ad-measuring 3 Bighas 18 Biswas, total Admeasuring 18 Bighas and 06 Biswa situated at in the Revenue Estate of village Bhalsawa Jahangir Pur, New Delhi (hereinafter as “subject land”) acquired vide Award bearing No.6/2002-2003, are deemed to have lapsed since the Award was made more than five years prior to the commencement of this Act and the possession of the subject land has not been taken over by the authorities.

2. The reliefs sought by the petitioner read as follows:

“a) issue a Writ, order or declaration declaring entire acquisition proceedings i.e. Section 4 Declaration/notification dated 15.09.2000, section 6 declaratory/ notification dated 17.04.2001 and award No. 06 of 2002-2003 DATED 12.04.2002 in respect of the land of the Petitioner comprised in and out of land falling in at Khasra No. 215, Ad-measuring 4 Bighas 16 Biswas, Khasra No.221, Ad-measuring 4 Bighas 16 Biswas, Khasra No. 222, Ad-measuring 4 Bighas 16 Biswas and Khasra No. 223, Ad-measuring 3 Bighas 18 Biswas, total Admeasuring 18 Bighas and 06 Biswa situated at in the Revenue Estate of village Bhalsawa Jahangir Pur, New Delhi have lapsed in view of sub-section 2 of the section 24 of "THE RIQHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013";

and

b) issue a, writ of mandamus directing the Respondents not to in any manner whatsoever; interfere with the peaceful enjoyment and possession of the said land presently in possession and occupation of the Petitioner;

and

c) pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

3. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter 'the LAA'), was issued on 15th September 2000 and declaration under Section 6 of the LAA was issued on 17th April 2001 for the purpose of 'Rehabilitation of J.J Clusters'. Subsequently, an Award dated 12th April 2002, bearing no. 06/2002-2003 was passed in respect of land situated at the Revenue Estate of village Bhalsawa Jahangir Pur, New Delhi.

4. It is pertinent to note that the challenge to the acquisition proceedings is on the surmise that the Petitioner has been paid compensation but the possession of the subject land has not been taken by the authorities.

5. The Government of N.C.T of Delhi- Respondent No. 1 and Land Acquisition Collector/A.D.M- Respondent No.2, in a common counter affidavit, at the outset have challenged the maintainability of the present petition on the ground of delay and laches. They have stated that the present petition is liable to be dismissed as the grounds of challenge raised in the present petition are on the basis of disputed question of fact and the same cannot be adjudicated in writ jurisdiction. Further, it is stated that possession of the subject land was taken on 22nd June 2001 and peacefully vests with the Respondent No.1. Regarding payment of compensation, it is the stand of both the

Respondents that compensation of Rs. 77,66,220.95/- has been paid to the petitioner on 07th May 2002 vide cheque no.814077.

6. The Delhi Development Authority - Respondent No. 3, in the counter affidavit, has also challenged the maintainability of the present petition on the ground of delay and laches. It is the stand of the DDA that acquisition proceedings have become final and Respondent No.1 is the recorded owner of the subject land as per the Jamabandi (land records).

7. The Petitioner, in reply to the counter affidavit filed on behalf of Respondent No.1 and 2, has stated that the respondents never took the actual physical possession of the subject land and the land is still in the possession of the Petitioner.

8. At the outset learned counsel for the Petitioner has been queried about the delay in filing the present petition. However, no purposeful explanation has been tendered, either in the petition or in the rejoinder affidavit, to justify the inordinate delay in coming forward to challenge the present acquisition proceedings. The Award for the subject land was passed in 2002, whereas the present petition has been filed after more than 15 years. The petition is obviously barred by laches. It is also pertinent to mention that Petitioner has not annexed any evidence along with the petition showing him being in the alleged possession of the subject land.

9. The Supreme Court has dealt with issue of delay and laches in *Mahavir v. Union of India (2018) 3 SCC 588*, in the context of the 2013 Act. The said judgment is unambiguous in emphasising that claims that are barred, and where there is total inaction, are not meant to be revived by the 2013 Act. The relevant observations of the Supreme Court in the said decision read as under:

“22. In our opinion, the cases in which there is deliberate action of the owners for not collecting the compensation and they do not want to receive it, Section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by willful act. The failure to deposit in court under Section 31(1) in such cases would attract only interest as envisaged under Section 34 of the Act and the provisions of Section 24 cannot be so invoked in such cases.

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.

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.”

(emphasis supplied)

11. This Court has also dealt with the issue of delay and laches in the case of *Mool Chand v. Union of India* (W.P. (C) 4528/2015) dated 17th January 2019, wherein the Court while elaborating the decision of *Mahavir v. Union of India*, (2018) 3 SCC 588 and *Indore Development Authority v. Shailendra*, (2018) 3 SCC 412, on the aspect of delay and laches, made the following observations:

"34. The question then arises whether only the points of difference between the decisions in *Pune Municipal Corporation* (supra) and *Indore Development Authority v. Shailendra* (supra) and all issues incidental thereto have been referred to the Constitution Bench? In this context it requires to be noted that although several questions were framed in *Indore Development Authority v. Shailendra* (supra), it is only on Question I, viz., on whether the deposit in the RD Account would amount to having tendered compensation for the purposes of Section 24 (2) of the 2013 Act, that there was a difference of opinion between the view expressed in the two decisions viz., *Pune Municipal Corporation* (supra) and *Indore Development Authority v. Shailendra* (supra).

35. The other point of difference was that arising in *Yogesh Neema v. State of MP* (supra) where the correctness of the decision in *Sree Balaji Nagar Residential Association v. State of Tamil Nadu* (supra) as regards exclusion of the period covered by the interim orders from the calculation of the period of five years under Section 24 (2) of the 2013 Act was questioned. On this point the three-Judge Bench in *Indore Development Authority v. Shailendra* (supra) unanimously overruled the decision in *Sree Balaji Nagar Residential Association v. State of Tamil Nadu* (supra). On this issue no subsequent Bench of the Supreme Court of co-ordinate strength appears to have taken a contrary view. It is doubtful, therefore, whether this issue would be examined by the Constitution Bench.

36. Relevant to the issue on hand, there was no difference of view qua Question III addressed in *Indore Development Authority v. Shailendra* (supra) i.e. “Whether section 24 of Act of 2013 revives barred and stale claims?” On this question there was no view (much less a contrary view) expressed in *Pune Municipal Corporation* (supra) or for that matter in any other subsequent decision of a smaller, co-ordinate or even larger Bench of the Supreme Court. This question, therefore, was not the subject matter of reference before the Constitution Bench.

37. Consequently, this Court is of the view that although the order passed by the Constitution Bench refers to “all the aspects” being considered by the Constitution Bench, that expression would not include questioning the correctness of the decision of the three-Judge Bench in *Indore Development Authority v. Shailendra* (supra) as far as it holds by a unanimous opinion that Section 24 (2) of the 2013 Act cannot revive old and stale claims.”

(emphasis supplied)

12. This Court passed similar decisions vide judgments dated 31st January 2019 in W.P. (C) 586 of 2016 (*Sushma Purthi v. Union of India*), 25th January 2019 in WP (C) 4919 of 2014 (*Krishan v. Union of India*), 5th February 2019 in W.P. (C) 2702/2019 (*Mohd. Mian v. Union of India*), has dismissed similar other petitions seeking a declaration under Section 24(2) of the 2013 Act, on the ground of delay and laches. Challenge against these judgments have been dismissed by the Supreme Court vide SLP (C) No. 11481/2019, SLP (C) No. 13423/2019 and SLP (C) No. 8848/2019, respectively. It also needs to be emphasized that this court has also dismissed several other petitions on the ground of delay and laches and challenge against those decisions before the Supreme Court has also been dismissed.

13. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the Court dismisses the present petition both on the ground of laches as well as merits.

SANJEEV NARULA, J.

VIPIN SANGHI, J.

SEPTEMBER 12, 2019

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