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

+ **W.P.(C) 3359/2016**

HAWA SINGH & ORS. Petitioners

Through: Mr. Mohit Kumar Sharma with Mr.
DS Lakra and Mr. Kartik Rai,
Advocate

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Rachana Srivastava with Mr.
Umme Salma for GNCTD.
Mr. Anmol Kapur and Mr. Pawan
Kawrani, Proxy Counsels for
DDAMr. Yeeshu Jain, Standing
Counsel and Ms. Jyoti Tyagi for
L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
28.03.2019

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1. The prayers in the petition read as under:

“(a) Pass an appropriate writ order or direction thereby directing the Respondents not to interfere in the peaceful possession and enjoyment of the land of the petitioners situated in Khasra No. 68/1 (2-3 mm), 68/10 (3-16 mm), 68/11 (3-16 mm), 68/11 (4-6), 68/21 and 68/20 (4-6) situated in the Revenue Estate of Village Pooth Kalan, Delhi; as the acquisition proceeding has lapsed.

(b) pass appropriate writ order or direction thereby directing the Respondents not to interfere in the possession and occupation of the petitioners till the date of demarcation of the land situated in Khasra No. 68/1 (2-3 mm), 68/10 (3-16 mm), 68/11 (3-16 mm), 68/11 (4-6), 68/21 and 68/20 (4-6) situated in

the Revenue Estate of Village Pooth Kalan, Delhi;

(c) Pass appropriate writ order or direction thereby declaring that the acquisition proceedings initiated by the Respondents in respect of the land situated in Khasra No. 68/1(2-3 mm), 68/10 (3-16 mm), 68/11(3- 16 mm), 68/11 (4-6), 68/21 and 68/20 (4-6) situated in the Revenue Estate of Village Pooth Kalan, Delhi having 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 as the Respondents have not paid the compensation in respect of the land nor they have taken the actual physical possession of the land till date; and

(d) Pass such other further orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 11th December 1981, followed by declaration under Section 6 of the LAA on 11th April 1984. The impugned Award No. 20/85-86 was passed on 13th November 1985. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra Nos. 68//1 (2-03), 68//10 (3-16), 68//11 (3-16), 68//20 (4-06) and 68//21 (4-06) was taken and handed over to the DDA on 13th November 1985. It is also submitted that the Petitioners have not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that compensation has not been paid.

4. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC.

5. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question or their entitlement to compensation gives rise to disputed questions of fact which cannot be examined in the present petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. 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.”

7. The above decision was reaffirmed by the judgment of a three Judge

Bench of the Supreme Court in *Indore Development Authority v. 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.”

8. The above observations have been followed by this Court in several orders including the order dated 17th January, 2019 in (*Mool Chand v. Union of India*)2019 (173) DRJ 595[DB] and similar petitions have been dismissed on the ground of laches.

9. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs. The grounds urged by the Respondents in the counter-affidavit are also being left open to be argued.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 28, 2019/tr