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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5616/2014, CM APPL. 13905/2014 & CM APPL 575/2015**
RAMAN SEKHRI Petitioner

Through: Mr. Ashim Vachher, Mr. Vaibhav
Dabas, Advocates

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Rajesh Kumar, Senior Panel
counsel for UOI.
Mr. Pawan Mathur, Standing
Counsel, DDA
Mr. Yeeshu Jain, Standing Counsel
and Ms. Jyoti Tyagi for L&B/LAC.
Mr. Tarique Siddiqui, Ms. Reetika
Gupta and Mr. Aamir Zaidi for
Applicant in C.M. No. 575/2015

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% **07.03.2019**

1. The prayers in the petition read as under:

“(a) issue a Writ order or direction in the nature of certiorari or any other appropriate writ thereby holding and declaring that the award being award No. 14/87-88 dated 26.5.1987 which was passed under the Land Acquisition Act, 1894 in respect of the Petitioner's land being measuring 11 Bighas 5.8 Biswas out of khasra No. 912(3-18), 914(3-2), 915(2-6) and 916(1-19.8) situated in the Revenue estate of Village Satbari, Tehsil Mehrauli, New Delhi is null and void, the same having lapsed on account of Section 24 of 2013 Act and consequent thereupon setting aside/quashing the said award; and

(b) issue a Writ of mandamus or any other writ or order or direction thereby directing the Respondents not to, in any manner what so ever, interfere in the peaceful enjoyment and possession of the said land structure standing thereon being the land measuring 11 Bighas 5.8 Biswas out of khasra No. 912(3-18), 914(3-2), 915(2-6) and 916(1-19.8) situated in the Revenue estate of Village Satbari, Tehsil Mehrauli, New Delhi which is in possession and occupation of the Petitioner; and

(c) issue writ of prohibition or any other writ or order or direction thereby prohibiting the Respondents from taking over the possession of the said land from the Petitioner under the impugned Award since the said Award has already lapsed; and

(d) Call for the entire record of the proceedings from the office of the Concerned Respondent and after examination of the records of the entire proceedings with respect to the said acquisition of land and quash the entire acquisition proceedings qua the said land; and

(e) Pass any other or further order(s) as may be deemed fit and proper in the facts and circumstances of the present case.”

2. In respect of the lands in a notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 17th May 1985. The impugned Award No. 14/87-88 was passed on 16th May 1987.

3. The averments in the petition are that one Shri Dalpat Singh was the recorded owner of khasra Nos. 912, 914 and 915. He is stated to have executed three separate 'Assignment Deeds' all dated 2nd September, 1987 i.e. after the issuance of Notification under Section 4 LAA and after the passing of the aforementioned Award. The said three assignees of Shri Dalpat Singh in turn executed different 'Assignment Deeds' in the name of one Shri Saheed Ahmad. Thereafter, Shri Saheed Ahmad executed

'Agreement-cum- Assignment Deed' dated 7th December, 2006 in favor of a partnership firm M/s Aditya Farms and Nursery of which the Petitioner was also a partner. She retired from the said firm under a Retirement Deed dated 6th September, 2010 in terms of which she was to get 20% of the share in the land in question.

4. From the above averments, it is plain that the Petitioner is not the recorded owner in respect of the lands in question. Further, the documents through which she traces her interest in the lands in question are of doubtful validity especially since they have all been executed after the Award was passed in respect of those very lands under the LAA. The attempted transfer was, therefore, in the teeth of the Delhi (Restriction on Transfer of Lands) Act 1972 and accordingly invalid.

5. In the counter-affidavit filed on behalf of the LAC, it is stated that the possession of Khasra No. 912 (3-18), 914 min (3-2) and 915 min (2- 06) was taken on 14th July, 1987 on the spot and was handed over to the DDA whereas the possession of remaining khasra number i.e. 916 (1-5.8) could not be taken. A copy of the possession proceedings has been enclosed with the counter affidavit. It is stated that the compensation for the land in Khasra numbers 912 (3-18), 914 min (3-2) and 915 min (2-06) has been paid on 30th September, 1987.

6. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is stated that as per the land records, the land bearing Khasra No. 912(3-18), 914(3-02), 915(2-06), in village Satbari was handed over to the DDA by the LAC on 14th July 1987. It is further submitted that a sum of Rs. 100 crores were remitted to LAC/L&B on

account of compensation for 13 villages of South Delhi, which includes the Village Satbari.

7. The rejoinder filed by the Petitioner to the counter affidavit of LAC merely reiterates the averments in the petition. It is claimed that the Petitioner is still in physical possession of the subject land. On the aspect of compensation, the Petitioner claims that she has not received or been offered any compensation. The rejoinder filed by the Petitioner to the counter affidavit of the DDA is similar to the rejoinder filed to the counter affidavit of the LAC. It reiterates that the Petitioner is still in physical possession of the subject land and has not received any compensation.

8. There is also an application for impleadment filed by the son of the recorded owner i.e. Shri Dalpat Singh. It is submitted by the Applicant that the Petitioner is not the owner of the subject land and is not in lawful possession of the same. It is further submitted that the father of the Applicant never transferred the ownership and possession of the subject land to anyone.

9. The above averments give rise to disputed questions of fact regarding the Petitioner's claims of being in possession and about being entitled to receive compensation pursuant to the Award under the LAA. The said disputed questions cannot be possibly gone into in these proceedings.

10. Mr. Ashim Vachher, learned counsel for the Petitioner, raised an issue with reference to Sections 20 and 21 of the Delhi Land Revenue Act, 1954 (DLRA) and submitted that the changes consequent upon the passing of the Award were not carried out in the revenue records. He stated that the entries

therein were still in the name of the original recorded owner.

11. Apart from the fact that there is no such plea raised in the petition, the above fact, even if correct, is of no assistance to the Petitioner in respect of her claims to the lands in question. She has not been able to show how she derives any valid title or right or interest in respect of the lands in question. Her claim through a series of assignment deeds is also disputed by the legal heir of the recorded owner.

12. Further, the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

13. 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.”

14. The above decision was re-affirmed by a 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.”

15. 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.

16. 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 pending applications are disposed of.

17. The interim order dated 1st September 2014 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

MARCH 07, 2019
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