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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5054/2016**

VIRENDER SINGH & ORS.

..... Petitioners

Through: Mr. N Prabhakar, Advocate
versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

% **14.03.2019**

1. The prayers in the petition read as under:

“a. Issue a writ of declaration that the acquisition proceedings with respect to the agricultural land in khasra no. 135 (IBigha-06 Biswas) in the village Ladha Sarai have lapsed in terms of the section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013;

b. issue a writ of mandamus or any suitable directions to the respondents to restore the actual physical possession of the subject land in favour of the petitioners and make appropriate changes in the revenue record;

c. Or in the alternative issue a writ in the nature of mandamus to issue fresh notification for the acquisition of land and award compensation to the petitioners in terms of the provisions of the New Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013;

d. pass any other order/suitable directions as this Honourable court deems just and appropriate in the facts and circumstances of the case.”

2. The narration in the petition reveals that in respect of the land in question

a notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 13th November 1959, followed by declaration under Section 6 of the LAA on 6th January 1969. The impugned Award No. 27/74-75 was passed on 28th March 1975. 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 No. 135 was taken and handed over to the DDA on 2nd May 1975. 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 amounting to Rs.75462.61 and Rs.26017.64 for the subject land was also paid to Shri Raj Kumar who was the recorded owner on 19th December 1977.

4. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra No. 135 (1-6) was acquired by the LAC on 2nd May 1975 and handed over to the DDA. On the aspect of compensation it is stated in Para 8 of the counter affidavit that:

“viii. As regard to the payment of compensation, it can be correctly clarified by the respondent No. 4/LAC. However, it is submitted that as per statement "A" obtained from the LAC vide the award No. 27/74-75 (annexed herewith as Annexure-A-I), total amount of compensation against item No. 24 in r/o 156 Bhigha 2 Biswa land, which also includes Khasra No. 135(1-06) have been assessed to the tune of Rs. 8,35,355.37. Out of this, an amount of Rs, 7,14,953.21 have been sent to court of ADJ on 23.11.79. The remaining amount i.e. Rs, 1,20,402.16 is shown as unpaid.”

5. The rejoinder filed by the Petitioners to the counter affidavit of LAC merely reiterates the averments in the petition. On the aspect of compensation, the Petitioner claims that they have not received any compensation. The Petitioner in their Rejoinder have relied on ***GNCTD v. Manav Dharam Trust (2017) 6 SCC 751*** in stating that declaration for lapsing can be sought in the present case. However, the Petitioners do not seem to meet the two essential requirements for lapsing of acquisition proceedings which are possession not being taken and compensation not being paid. In this case, the possession has been taken way back on 2nd May 1975 and compensation has also been paid to the recorded owners. Therefore, the reliance on ***GNCTD v. Manav Dharam Trust (supra)*** is to no avail.

6. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of fact. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

7. 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.”

8. The above observations have been reiterated in the judgment of the three Judge Bench 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 negated 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.”

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

10. 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.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 14, 2019 /rd