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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 5463/2016

MANISH BIDHURI & ORS.

..... Petitioner

Through: Mr Aashish Gumber, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms Sangita Rai (SCGC) with Mr Pradeep Singh, Advocates for R1/UIO
Mr Sidharth Panda, Advocate for LAC/L&B
Mr Nikhil Goel with Mr Gurpreet Hora, Advocates for Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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06.02.2019

1. The prayers in the present petition read as under:

“a) Issue a Writ of Certiorari and/or any other suitable Writ of like nature Quashing the Award No.1986 of 1967 of Village Tuglakabad, Delhi as illegal and declaring the aforesaid land acquisition proceedings as lapsed and null and void in respect of and in relation to the petitioner’s 1/3rd share of land under section 24 of “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013”.

b) Issue a writ of Mandamus or any other suitable writ of like nature directing Respondents No.1 to 4 to restore the land of the Petitioners or in alternative provide equivalent land of the same market value to the petitioners or to start the acquisition afresh and to make the payment as per current market value as per “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement”;

Pass any such other or further Orders as this Hon’ble Court may deem fit

and proper to secure justice in view of the facts and circumstances of the case.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued on 13th November 1959 followed by declaration under Section 6 LAA on 10th November 1966. The impugned Award No.1986 was passed in 1967. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and that since the lands have been acquired but no compensation has been paid to the Petitioners, the acquisition proceedings stand lapsed. It is stated that the Petitioners are related to each other and have common ancestors, and a ‘pedigree table’ as well as a copy of the revenue record has been enclosed along with the petition.

3. The fact remains that there is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for relief in terms of the 2013 Act.

4. 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.”

5. 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 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.”

6. The above observations have been followed by this Court in several orders including the order dated 10th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

7. For the aforementioned reasons, the writ petition is dismissed on the ground of laches, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 06, 2019