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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8376/2018

BRIJ BHUSHAN GUPTA

.... Petitioner

Through: Mr. V. Shukla, Advocate

versus

LAND ACQUISITION COLLECTOR

.... Respondent

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

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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26.07.2019

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

“issue a writ/order or direction in the nature of certiorari calling for the records of the Acquisition proceedings in respect of the land in question, comprised in Khasra No.126, measuring 8 Biswas, Plot No.23, Block-A, in the abadi known as Brij Vihar Colony, situated in the revenue estate of Village Gazipur, Shahdara, Delhi;

Further to issue appropriate writ, order or direction declaring the acquisition proceedings have lapsed and have become inoperative after coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013”

2. The background facts are that the land in question i.e. Plot No.23, Block-A bearing Khasra No. 126 admeasuring 8 *Bighas* situated in the revenue

estate of Village Gazipur, Shahdara, Delhi (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 13th November, 1959 for the public purpose of "planned development of Delhi". This was followed by a declaration under Section 6 of the LAA on 29th June, 1966. The Land Acquisition Collector ('LAC') passed Award No. 94/86-87 on 17th September, 1986.

3. As far as the Petitioner is concerned, it is stated in the petition that the one Ishwar Dass Singhal executed General Power of Attorney ('GPA') in favour of Petitioner on 4th February, 1975 which was registered on 13th February, 1975. It is stated that Ishwar Dass Singhal, in turn, had purchased the subject land from one Ram Bal by way of a GPA registered on 22nd May, 1974. A copy of the GPA dated 4th February, 1975 has been annexed with the petition. Apart from this not being a valid instrument for transfer of title, it appears that the Petitioner having full knowledge of the status of the land in question, and without taking permission from the competent authority, in terms of the Delhi Land (Restriction of Transfer) Act, 1972 entered into the said transaction.

4. It is averred in the petition that the Petitioner has been in possession of the subject land and that the fact thereof is reflected in the *Khasra Girdawari*. A copy of the *Khasra Girdawari* has been annexed with the petition. It is further averred that the Petitioner had filed an RTI on 11th December, 2017 and that from the reply to the same, dated 21st January, 2018 it transpired that neither had possession been taken nor compensation paid. It is also stated that the Petitioner had filed a suit for perpetual injunction against the

DDA and that the said suit was dismissed on the ground that subsequent to acquisition the Civil Court ceased to have any jurisdiction to entertain the suit. It is stated that the learned Trial Court passed its judgment on 21st August, 2001. Thereafter, the petition straightaway refers to the passage of the Right to Fair Compensation and Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing under Section 24 (2) on the ground that neither had possession been taken nor had compensation been paid.

5. No counter affidavit has been filed on behalf of the LAC or the DDA. Be that as it may, the assertion of the Petitioner that possession of the subject land has not been taken and compensation not paid, gives rise to disputed questions of fact and cannot be examined in the present petition. The fact further remains that there is no explanation anywhere in the petition for the inordinate delay in approaching the Court for relief.

6. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* a three Judge Bench of the Supreme Court of India observed as under:-

“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.”

7. It may be noted here that the reference made by a Constitution Bench in *Indore Development Authority v. Shyam Verma (2018) 4 SCC 405* regarding the correctness of the aforesaid decision in *Indore Development Authority v. Shailendra (supra)* is only as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183* regarding the tendering of compensation, and not on the question of petitions seeking declaration under Section 24 (2) of the 2013 Act being barred by laches. This legal position was explained by this Court recently in its decision in *Mool Chand v. Union of India (2019)173 DRJ 595 (DB)*.

8. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 10th August, 2018 as confirmed on 22nd November, 2018 stands hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 26, 2019

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