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

+ **W.P. (C) 6864/2016**

SAMTAYOG ASHRAM & ORS.

.... Petitioners

Through: Dr. Sumant Bharadwaj
and Ms. Rinchen Wangmo,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.... Respondents

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

Mr. Dhanesh Relan, Standing
Counsel, and Gauri Chaturvedi,
Advocate for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

20.08.2019

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

“i. enforcement of his rights under the provision of sub-section 2 of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force w.e.f. 01-01-2014 vide S.O. 3729 (E), dated 19-12-2013; and

ii. implementation of the decision taken by DDA in its meeting held on 23-04-2013 on point number 6 that "if land acquired for the intended purpose is no longer required, then it could be de-notified."; and

iii. implementation of the judgments of the Hon'ble Supreme Court of India in Reference Pune Municipal Corporation vs. Harakchand Misrimal Solanki in C.A. No. 877 of 2014 followed in C.A. No. 1971 of 2014 in re Bharat Kumar Vs. State of Haryana, in C.A. No. 1831-1836 of 2009 in re UOI v. Chatro Devi, in C.A. Nos. 5478-5483 of 2014 in re UOI vs. Shiv Raj & in C. A. No. 3871 of 2014 in re Bimla Devi Vs. State of Haryana for enforcement of the provision of sub-section 2 of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. The background facts are that the lands in question i.e. Field Nos. 1104/2/1 and 1104/2/2 ('subject lands') admeasuring 5 *Biswas* and 10 *Biswas* respectively situated in Village Naraina were notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 22nd August, 1953 and 13th November 1959 respectively for the public purpose of “the construction of the Ring Road Phase III”. These were followed by declarations under Section 6 of the LAA dated 20th July, 1954 and 27th February, 1962 respectively. Thereafter, the Land Acquisition Collector ('LAC') made Awards Nos. 1318 and 1380 ('the Awards') dated 16th May, 1962 and 29th August, 1962 under Section 11 of the LAA.

3. As far as the Petitioners are concerned, Petitioner No. 1 is stated to be a registered society under the Societies Registration Act, 1860 and is contending the suit through its Secretary, who has been authorized in this regard. It is stated by the Petitioners that possession of the subject lands was taken on 1st September, 1962. It is further stated by the Petitioners that the Awards did not calculate the compensation in respect of the subject lands, which were respectively described as *Banjar Jadid* and *Gair Mumkin*

Dharamsala. Therefore, it is claimed by the Petitioners that no compensation has been paid or deposited in court in respect of the subject lands.

4. It is submitted by the Petitioners that the Delhi Development Authority ('DDA') decided in a meeting dated 23rd April, 2013 that "if land acquired for the intended purpose is no longer required then it could be de-notified." It is further submitted by the Petitioners that the writ petition should be allowed on the basis of the Supreme Court's decisions in ***Pune Municipal Corporation v. Harak Chand Misirimal Solanki (2014) 3 SCC 183***, ***Bharat Kumar v. State of Haryana (2014) 6 SCC 586***, ***Bimla Devi v. State of Haryana (2014) 6 SCC 583*** and ***Union of India v. Shiv Raj (2014) 6 SCC 564***.

5. In the counter-affidavit of the DDA, it is pointed out that the Petitioners have placed no document on record to claim their right and title over the subject lands. It is further contended that the writ petition is liable to be dismissed on the ground of delay and laches. It is stated by the DDA that possession of the subject lands was taken by the LAC by way of *Kabza Karvahi* dated 1st September, 1962 and placed at its disposal. It is further stated that compensation in respect of the subject lands was released by way of the Revolving Fund at the time of the announcement of the Awards.

6. Averments in respect of the ownership of the subject lands and the payment of compensation raise disputed questions of fact which cannot to be pronounced upon by this Court. Be that as it may, the Petitioners have no

explanation to offer for the inordinate delay in approaching the Court for relief. 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.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 20, 2019
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