

\$~45

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

+ **W.P.(C) 200/2017**

NARESH KUMAR & ORS. Petitioners

Through: Mr. B.D. Sharma, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Kavindra Gill for UOI.
Ms. Arun Birbal and Mr. Ajay Birbal for
DDA
Mr. Sabjay Kumar Parthak, Mr. Sunil
Kumar Jha and Mr. M.S. Akhtar for
L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
26.04.2019

%

1. The prayers in the petition read as under:

“(a) pass a writ, order or direction in the nature of writ of declaration, declaring the acquisition proceedings initiated in respect of the land of the petitioners, admeasuring 03 Bighas, out of Khasra No.28/4/1, situated in Village-Bamnoli, Delhi, as deemed to have lapsed in view of the provisions of the right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

(b) Further pass a writ, order of direction in the nature of a writ of mandamus thereby directing the respondents not to interfere with the peaceful possession and enjoyment of the land bearing No.28/4/1 (0-4), situated in Village-Bamnoli, Delhi; and

(d) Pass such other or orders as deem fit and proper in the circumstances of the case.”

2. The narration in the petition reveals that notification under Section 4 of the

Land Acquisition Act, 1894 ('LAA') was issued on 4th November 2004, followed by declaration under Section 6 of the LAA on 31st October 2005. The impugned Award No. 1/2007-08/DC (NW) was passed on 6th August 2007. There is no explanation in the petition for the 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. 28//4/1(0-3) was taken on 6th May 2010. On the aspect of compensation, it is submitted that compensation amount of Rs. 80008.11 was deposited in the court of the learned ADJ under Section 30-31 of the LAA vide Cheque no. 810917 dated 16th August 2010.

4. The rejoinder filed by the Petitioner to the counter affidavit of LAC merely reiterates the averments in the petition. It is stated in para 3 of the rejoinder that the LAC has admitted that it has not taken possession. Whereas, in the counter affidavit of the LAC it is stated that possession has been taken on 6th May 2010. It is further stated that the LAC has not filed any document showing proof of compensation being deposited.

5. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question and are entitled to compensation gives rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the delay in approaching the Court for the relief.

6. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* it was 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 become 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. 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.

8. 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.

APRIL 26, 2019

tr