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

+ **W.P.(C) 6789/2016**

SUNITA SAINI @ SUNITA RAJPUT

..... Petitioner

Through: Mr. D.V. Khatri, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Shobhna Takiar with Ms. Shivani
Jain for DDA

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

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

ORDER
03.04.2019

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1. The prayers in the petition read as under:

“i) Issue Writ of certiorari to the effect of quashing the impugned award No. 1170 dated 24.07.1961 of Village-Humayunpur, Delhi-29, passed by the Land Acquisition Collector under Section 11 of the Land Acquisition Act in respect of the land bearing Khasra No. 50/11 measuring 200 Sq. yds. situated in the revenue estate of Village-Humayunpur, Arjun Nagar, New Delhi-29, ' being lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

ii) Declaration to the effect of declaring the award No. 1170 dated 24.7.1961, Notification U/S 4 of the Act, 1894 -vide No. F.15(84)/57-LSG dated 3.9.1957 and declaration made under section 6 of the LA Act vide Notification No. F. 15(84)/57-LSG

dated 7.4.1961 in respect of the land bearing Khasra No. 50/11, measuring 200 Sq. yds. situated in the revenue estate of Village-Humayunpur, Arjun Nagar, New Delhi-29, as null and void being lapsed Under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Pass any further orders or directions which this Hon'ble Court deems fit and proper in the present case in favour of the petitioner, in the interest of justice.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 3rd September 1957, followed by declaration under Section 6 of the LAA on 7th April 1961. The impugned Award No. 1170 was passed on 24th July 1961.

3. It is stated in the petition that the maternal aunt (*mausi*) of the Petitioner purchased the subject land from Mr. Chotu, Mr. Har Kishan and Mr. Gorhdan vide registered sale deed dated 15th September 1959. It is stated that she was the recorded owner of land bearing Khasra No. 50/11, measuring 200 sq. yards situated in the revenue estate of village-Humayunpur, Arjun Nagar, New Delhi-110029. The aunt of the Petitioner expired on 13th December 1982 and executed a registered will in favour of the Petitioner. The learned ADJ, Delhi by order dated 17th May 1996 issued a letter of administration (LOA) in favour of the Petitioner. It is further claimed that “neither the Mausi of the petitioner nor petitioner has received the compensation in respect of the aforesaid property/land nor the physical possession of the said property/land was handed over by them and taken over by the respondents till date.”

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No. 50/11/1 (5-6) was taken over on 29th September 1975 but the remaining land (3-1) could not be taken due to built up structures. On the aspect of compensation, the LAC has produced a chart of payment of compensation which is being reproduced below:-

S No.	Name & Share	Amount	Remarks
1.	Harish Chand S/o Bhajan 1/12	131.77	Paid
2.	Sukhbir Singh S/o Bhajan 1/12	131.77	Paid
3.	Mahabir S/o Bhajan 1/12	131.77	Paid
4.	Harkishan S/o Mehesala 1/8	197.65	Paid
5.	Gourdhan S/o Mehesala 1/8	197.66	Paid
6.	Khem Chand S/o Nihal 1/6	263.54	Paid
7.	Deepan S/o Nihal	263.54	Paid
8.	Rajkumar S/o Chhotu 1/42	37.65	Paid
9.	Krishan Kumar D/o Chhotu 1/42	37.65	Paid
10.	Laxmi Devi D/o	37.65	Paid

	Chhotu 1/42		
11.	Sunder Kala D/o Chhotu 1/42	37.65	Paid
12.	Dhan W/o Chhotu 1/42	37.65	Paid

5. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC.

6. In any event, the assertion by the Petitioner that she continues to remain in possession of the land in question or that compensation was not tendered gives rise to disputed questions of fact which cannot be examined in the present petition. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for 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 decision was reaffirmed by the judgment of the three Judge Bench of the Supreme Court 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 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.”

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.

11. The interim order dated 8th August 2016 which stood confirmed on 14th November 2017 stands vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 03, 2019