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

+ **W.P.(C) 6704/2016**

**MANOJ BALHARA**

..... Petitioner

Through: Mr. Vishal Maan, Advocate

versus

**GOVT. OF NCT OF DELHI & ORS.**

..... Respondents

Through: Ms. Shobhna Takiar with Ms. Shweta Anand for DDA  
Mr. Yeeshu Jain, Standing Counsel and Ms. Jyoti Tyagi for L&B/LAC

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

**02.08.2019**

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1. The prayer in the petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the 1/4th share in the land comprised in Khasra nos. 91 (2-8), 92(3-11), 114/2 (0-14), 116/3 (0-18), 125 (1-12) , 181/3 (0-12) ,186/2 (2-12) , 187 (6-2), 188/2 (2-14), 232/1 (2-8), total admeasuring 23 Bighas 11 Biswas (i.e. 1 Bighas 8 Biswas and 7 biswansi) and 1/4<sup>th</sup> share in the land comprised in khasra nos. 235 (4-16), 236 (4-16), 248 (4-16) and 375 (0-11), total admeasuring 14 Bighas 19 Biswas (i.e.1 Bigha and 2 Biswas and 4 biswansi) situated in revenue estate of village Neb Sarai, New Delhi to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.”

2. It is stated in the petition that the grandfather of the Petitioner Shri Ram Swaroop was the one of the recorded co-owners to the extent of 1/3<sup>rd</sup> share in the

land comprised in Khasra Nos. 91 (2-8), 92(3-11), 114/2 (0-14), 116/3 (0- 18), 125 (1-12) , 181/3 (0-12) ,186/2 (2-12) , 187 (6-2) , 188/2 (2-14), 232/1 (2-8) total admeasuring 23 Bighas 11 Biswas and also recorded co-owner to the extent of 1/3<sup>rd</sup> share in the land comprised in Khasra nos. 235 (4- 16), 236 (4-16), 248 (4-16) and 375 (0-11), total admeasuring 14 Bighas 19 Biswas situated in revenue estate of village Neb Sarai, New Delhi.

3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') for acquisition of the above land was issued on 25<sup>th</sup> November 1980, followed by declaration under Section 6 of the LAA in 1985. The impugned Award No. 12/87-88 was passed way back in 1987. It is stated that the possession of the subject lands still vests with the Petitioner and has not been taken over by the Respondents. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. From the narration in the petition it is clear that the petition is barred by delay and laches. The Petitioner has approached the Court in 2016 that is almost 30 years after the Award was passed. Moreover, the Petitioner has not annexed any document or title which shows that the Petitioner or his predecessor-in-interest was the recorded owner of the land in question.

5. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018)* 3 SCC 412 a three Judge Bench of the Supreme Court 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.”

6. 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 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 on certain other issues but 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 *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

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. The interim order dated 2<sup>nd</sup> August 2016 passed by this court which stood confirmed on 20<sup>th</sup> March 2018 is hereby vacated.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**AUGUST 02, 2019**

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