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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6723/2016**

BALDEV SINGH CHANNA Petitioner
Through: Mr. Shakti S.Yadav, Advocate

versus

GOVERNMENT OF NCT OF DELHI AND ANR. Respondents
Through: Mr. Sachin Nawani, Advocate for
Respondent No. 1

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **24.07.2019**

1. The prayer in the present petition reads as under:

“a. Issue a writ of declaration or any other writ of the like nature thereby declaring that the land acquisition proceeding in respect of the land measuring 04 Bighas 12 Biswas comprised of Khasra Nos. 42//25/1 (02 - 14), 42//25/2 (01 - 18) situated in the Revenue Estate of Village Najafgarh, Delhi initiated vide notification dated 07.04.2006 passed under section 4 of the Land Acquisition Act, 1894 stand lapsed in view of the section 24 (2) of the 2013 Act.”

2. The background facts are that the land in question i.e. 4 *Bighas* 12 *Biswas* in Khasra Nos. 42//25/1 (02 - 14), 42//25/2 (01 - 18) (hereafter, ‘subject land’) situated in the Revenue Estate of Village Najafgarh was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 7th April, 2006 for

the public purpose of “construction of 100meter road, under the planned development of Delhi”. This was followed by a declaration under Section 6 dated 4th April, 2007. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 05/2008-09/SW on 20th November, 2008.

3. As far as the Petitioner is concerned, it is stated that the Petitioner is the owner/*Bhumidar* of the subject land. A copy of the revenue record has been annexed with the petition. It is averred in the petition that the possession of the subject land remains with the Petitioner and that compensation has not been paid to him. It is further stated that the Petitioner has not initiated any legal proceedings challenging the impugned Award. Thereafter, the petition straightaway refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and the Petitioner’s entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act on the ground that neither was possession of the subject land taken nor was compensation paid to him.

4. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that the possession of the subject land was taken and handed over to the beneficiary department on 23rd November, 2012. In respect of compensation, it is averred that “Statement 'A' of Award No.5/2008-2009 is not traceable in the office of the Land Acquisition Collector therefore it cannot commented as to whether the compensation has been paid to the interested persons in present case”.

5. In the counter affidavit filed by the DDA, it is averred that possession of the subject land was taken and handed over on 23rd November, 2012. It is further averred that compensation of Rs.8,11,85,866/- by way of a cheque [cheque no. 445291] dated 28th January, 2010 was released to the L&B Department. It is averred that the instant petition is barred by delay and laches.

6. A rejoinder has been filed on behalf of the Petitioner to the counter affidavit of the LAC, where is averred that mere paper possession of the subject land was taken. It is also averred that no proof has been advanced to demonstrate that compensation has been tendered to the Petitioner. A reference has also been made to the order of this Court in *Diwan Chand v. Government of NCT of Delhi* [W.P.(C) 3901/2015] dated 1st March, 2016, where the Court had issued a declaration of deemed lapsing in respect of land admeasuring 46 *Bighas* 15 *Biswas* which was the subject matter of the Award impugned in the present petition.

7. The assertion of the Petitioner that he continues to remain in possession of the subject land and has not been paid compensation gives rise to disputed questions of fact, which cannot be examined in the present petition. The fact further remains that there is no explanation advanced anywhere in the petition for the inordinate delay for 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 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.”

8. 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)*.

9. The order of this Court in *Diwan Chand v. Government of NCT of Delhi* was passed at a time when the aforementioned judgment of the Supreme Court in *Indore Development Authority v. Shailendra (supra)* had not been

delivered. Therefore, the said order is of no assistance to the present Petitioner.

10. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 3rd August, 2016 as confirmed on 29th November, 2017 is hereby vacated.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 24, 2019

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