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

+ **W.P. (C) 6891/2016**

DARSHAN SINGH & ORS. .... Petitioner

Through: Mr Dheeraj Singh Panwar, Advocate.

versus

UNION OF INDIA & ORS. .... Respondents

Through: Mr Vijay Joshi, Senior Panel Counsel with  
Mr Himanshu Pathak, Advocates for R-  
1/UID  
Mr MK Singh, Advocate for DDA.  
Mr Yeeshu Jain and Ms Jyoti Tyagi,  
Advocates for LAC/L&B.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

% **11.02.2019**

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

“a. Pass a writ, order or direction in the nature of a writ of declaration, declaring the acquisition proceedings initiated in respect of the land comprised in Khasra Nos.498 (24-12), and 499 (2-13) total admeasuring 27 Bigha 05 Biswa, situated in village Kasoompur, Delhi to the extent of ½ share owned by Petitioner’s predecessors namely MamChand, etc., have lapsed in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

b. Pass any such other or further orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 (‘LAA’) was issued on 24<sup>th</sup>

October 1961 followed by declaration under Section 6 LAA on 31<sup>st</sup> December 1962. The impugned Award No.1566 was passed way back on 18<sup>th</sup> April 1963. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and that since compensation for the subject lands has not been paid, the acquisition proceedings in respect of the subject lands stand lapsed.

3. In the counter-affidavit filed by the LAC, it is submitted that as admitted by the Petitioners, subsequent to the Reference under Section 30-31 of the LAA which was decided on 16<sup>th</sup> July 1975, compensation amount of Rs.14390.81/- was released "for the beneficiary mentioned at S.No.183 to 189 in *Naksha Muntazamin* was sent to the ADJ Court vide to refund vouchers dt.23/12/69." It is stated that the onus is on the Petitioners to get the amount released from the ADJ Court after getting the decree in their favour. Further, it is pointed out that a reference petition under Section 18 LAA for enhancement was filed by the alleged predecessor-in-interest of the Petitioners in respect of the subject land which was decided by judgment dated 7<sup>th</sup> February 1992 thereby enhancing compensation. The subsequent appeal by the Union of India under Section 54 LAA was dismissed on 10<sup>th</sup> August 1998, and this order attained finality. Accordingly, it is contended that the Petitioners cannot possibly contend that no compensation was tendered. In any event, subsequent to the impugned Award, actual vacant physical possession of the subject land was taken on 18<sup>th</sup> April 1969 on the spot and handed over to the requisition agency by preparing possession proceedings.

4. In the counter-affidavit filed by the DDA, it is submitted that the petition

is barred by laches as the Petitioners have approached the Court after around 55 years of the Award being passed. Further, the Petitioners have not placed any record/title, documents showing them to be the recorded owners of the land in question. It is submitted that the acquisition proceedings have long since attained finality and the petition is liable to be dismissed. It is submitted that pursuant to Award No.1566, the physical possession of the subject land was taken for the purpose of planned development of Delhi and handed over to the DDA by the LAC/L&B Department on 3<sup>rd</sup> May 1963. It is stated that the land vests with the Government free from any encumbrance. As regards compensation, it is submitted that the DDA “had already remitted compensation of Rs.52 Lacs on 21.11.79 to L&B Deptt. GNCTD vide file no.F1(25)79/CRC including Rs.25,19000 for village Kusumpur acquired vide Award No.1566.”

5. A rejoinder has been filed by the Petitioner No.1 to the counter affidavit filed by the LAC. It is stated therein that with respect to the initial Reference made under Section 30-31 LAA, compensation of the amount of Rs.14390.81 was not released for Serial Nos.183 to 189 which was sent to the learned ADJ through refund vouchers dated 23<sup>rd</sup> December 1969. It is contended that the *naksha muntazain* has been tampered with and the entry regarding deposit of compensation subsequent to the judgment dated 16<sup>th</sup> July 1975 has been ante dated. It is further been stated as mentioned in the affidavit of the LAC, after the dismissal of the RFA No.390/1992 by this Court on 11<sup>th</sup> November 1998, the judgment dated 7<sup>th</sup> February 1992 of the learned ADJ had attained finality but that “compensation was not paid to the petitioners predecessors in interest and was not even deposited in the Court of Ld. ADJ to which the petition u/s 18(1) of the land acquisition act was

preferred and was also not deposited with the appellate court.” As regards possession, it is denied that “physical possession of the said land was taken over on 18<sup>th</sup> April 1969.” It is submitted that the Petitioners are not in physical possession of the said land and that it is presently lying vacant. The rejoinder further states that the Petitioners are entitled to the benefits of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’).

6. The assertions by the Petitioners as regards ownership, compensation and the current status of the land give rise to a disputed question of facts, which cannot be examined in the present petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief, in respect of an award that was passed way back in 1963.

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 has been re-affirmed 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 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.”

9. The above observations have been followed by this Court in several orders including the order dated 10<sup>th</sup> January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) 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.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**FEBRUARY 11, 2019/tr**