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

+ **W.P.(C) 6843/2016**

ASHA RAM

..... Petitioner

Through: Mr. Misbah Bin Tariq & Mr. Fauzan
Abbasi, Advocates for Petitioner

versus

GOVERNMENT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Kunal Sharma for DDA
Mr. Yeeshu Jain, Standing Counsel and Ms.
Jyoti Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

06.02.2019

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1. The prayers in the petition read as under:

“a) issue a writ, order or declaration declaring that the entire acquisition proceedings i.e. section 4 notification dated 23.06.1989, section 6 declaration is dated 22.06.1990 and the award no.21/92-03 announced on 18.06.1992 in respect of the petitioners land comprised in Khasra Nos.409 measuring 10 Bishwa (500 Sq yard) situated in the revenue Estate of Village Jasola, Delhi have lapsed in view of sub-section 2 of "THE RIGHT TO AIRCOMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013".

b) Issue a writ of mandamus directing the respondents not to in any manner whatsoever; interfere with the peaceful enjoyment and possession of the said lands presently in possession and occupation of the petitioner; and

c) Pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd June 1989, followed by declaration under Section 6 of the LAA on 22nd June 1990. The impugned Award No. 21/1992-93 was passed on 18th June 1992. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is stated that the possession of Khasra No.409(14-15) was taken and handed over to the DDA on 16th July 2007 which is also an admitted fact in Para 6 of the petition. It is also submitted that the *Naksha Muntazim* does not contain any entry regarding payment of compensation.

4. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra No. 661/482(2-13), 483(0-10) was acquired for “YRF Scheme”. The physical possession of this land was handed over to the DDA by LAC on 16th July 2007. It is also stated that the DDA has released an amount of Rs. 10 Crores to LAC on 28th August 1990 via cheque no. 887574 towards compensation of the acquired land.

5. No rejoinder has been filed by the Petitioner. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. 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.”

7. The above observations have been reiterated in the judgment of the three Judge Bench 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 negated 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.”

8. The above observations have been followed by this Court in several orders including the order dated 10th 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.

9. 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.

10. The interim order passed by this court dated 8th August 2016 which stood confirmed on 30th November 2017 stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 6, 2019

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