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

+ **W.P.(C) 7151/2016**

KHEM CHAND

..... Petitioner

Through: Mr. Devesh Pratap Singh,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rajesh Kumar, Senior
Panel counsel for UOI.

Mr. Pawan Mathur for DDA

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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20.05.2019

1. The prayers in the petition read as under:

“(i) Issue an appropriate writ, order or direction thereby declaring that the acquisition proceedings concerning the land of Khasra No.203/2 (0-16) and 208/1 (3-0) arising out of the Award bearing No.205 of 1986-87 situated In the revenue estate of Village Kotia MahlGiran, Tehsil Mehrauli, District South East, New Delhi / have lapsed under section 24(2) of the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013;

(ii) Award the costs of the present writ petition in favor of the petitioner and against the respondent.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 6th April 1964, followed by declaration under Section 6 of the LAA on 7th

December 1966. The impugned Award No. 205/1986-87 was passed on 19th September 1986. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. It is stated in the writ petition that the Petitioner is the co-owner of the land forming part of Khasra No.203/2 (0-16) and 208/1 (3-0) situated in the revenue estate of Village Kotia Mahi Gram, Tehsil Mehrauli, District South East, New Delhi. It is stated that the land was initially acquired by Shri Chet Ram, Tula Ram and Het Ram. Shri Tula Ram died issueless making Shri Chet Ram and Het Ram equal owners having $\frac{1}{2}$ share each. The Petitioner inherited his father Shri Chet Ram's share after his death. It is stated that the Award was passed in 1986 and till date no compensation has been paid. The Petitioner in para 5 of the petition states that "The land is, otherwise, lying vacant at the spot. Of course, the petitioner is not claiming in the present petition regarding possession."

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No. 203/2 (0-16) and 208/1 (3-0) (claiming $\frac{1}{2}$ share) was taken and handed over to the DDA on 5th March 1997. On the aspect of compensation, it is submitted that as per 'Statement A' of the Nakshamuntazim the compensation was sent in the RD as there was some dispute.

5. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is stated that the petitioner has not filed anything to show that Shri Tula Ram died issueless, he

has not even attached the death certificate of Shri Tula Ram. It is further submitted that as per the land records, the land bearing Khasra No. 203/2(0-16) and 208/1(3-0) was acquired by the LAC on 5th March 1997 and handed over to the DDA.

6. No rejoinder has been filed by the Petitioner to the counter affidavits of the LAC or the DDA. In any event, the assertion by the Petitioners that they have not received compensation gives rise to a disputed question of fact. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the 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:-

“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. 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* (supra)** 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*.

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.

I.S. MEHTA, J.

MAY 20, 2019/tr