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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7984/2016 & CM APPL. 7922/2019,33096/2016**

LOKESH TYAGI & ANR. Petitioners

Through: Ms. Mamta Sarna, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Ashutosh Ghade with Mr. Nikhil
Goel for DDA
Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi for L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
18.03.2019

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1. With consent of parties the matter has been taken up for final hearing.

2. The prayers in the petition read as under:

“i. issue a writ of certiorari or any other appropriate writ, order or direction, declaring that the land acquisition proceeding initiated by the notification dated 4.9.1967 under Section 4 and declaration dated 2.9.1976 under Section 6 of Land Acquisition Act qua the petitioner land bearing Khasra No. 26 and 27 of Village Wazirabad, Delhi resulting in Award No. 240/1986-87 as having lapsed by virtue of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

ii. pass such other and further order/s as may be deemed fit and proper in the facts and on the circumstances of the case in favour of the petitioner and against the respondent.

iii. Cost of this petition may be allowed in favour of the petitioner and against the respondents 1 to 3.”

3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 24th May 14th September 1967, followed by declaration under Section 6 of the LAA on 2nd September 1970. The impugned Award No. 240/86-87 was passed on 21st September 1986. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No.26/2 and 26/27 was taken and handed over to the DDA on 22nd September 1997. It is also submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that "the compensation appears to have not been paid as there is an entry in the Naksha Muntazamin that there was a stay on dispossession in CWP No. 2502/82, the compensation be retained."

5. 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. 26/2 and 26/27 was acquired by the LAC on 22nd September 1997 and handed over to the DDA. On the aspect of compensation it is stated that :-

"12. That the compensation amount or Rs.2,00,00,000/- against the award No.240/86-87 was released in favour of L&B Deptt. through cheque No. 0018462 dated 27/01/1986.

13. That the status of payment of compensation to the petitioner can be replied by the Land Acquisition Collector. However, from the copy of Naksha Mutzamin received from the office of LAC the

compensation against the land under reference has been kept abeyance due to CWP No. 2502/1982”

6. No rejoinder has been filed by the Petitioners to the counter affidavit of the LAC or the DDA.

7. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question or that compensation has not been tendered gives rise to disputed questions of fact which cannot be examined in these proceedings. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. 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.”

9. The above decision has been 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:-

“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.”

10. The above observations have been followed by this Court in several orders including *Mool Chand v. Union of India 2019 (173) DRJ 595[DB]* and similar petitions have been dismissed on the ground of laches.

11. 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. The interim order dated 9th September 2016 which stood confirmed on 20th November 2018 stands vacated. The pending applications are disposed of. The next date of hearing which is 29th August 2019 stands cancelled.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 18, 2019

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