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

+ **W.P.(C) 3553/2017**

NAFE SINGH& ORS. Petitioners

Through: Mr. N. Prabhakar, Advocate

versus

UNION OF INDIA& ORS. Respondents

Through: Ms. Mrinalini Sen, Ms. Kritika Gupta for
R3/DDA
Mr. Yeeshu Jain, Standing Counsel and Ms.
Jyoti Tyagi for L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VINOD GOEL

ORDER
08.02.2019

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1. The prayers in the petition read as under:

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to 2 bighas 10 biswas land of the petitioners' comprised in khasra nos.748 (2-06) and 359 (0-4) (new numbers 23/22/2 and 28/4/1), situated in the revenue estate of Village Bamnoli, NCT of Delhi, having lapsed and further quashing the impugned notification No. F.9(50)/2004/L&B/LA/13211 dated 04.11.2004 issued. under Section 4, Notification No.F.9(50)/2004/L&B/LA/9450 dated 31.10.2005 issued under Section 6 of the Land Acquisition Act, 1894 and the Award No. 1/2007-08 dated 27.07.2007 with respect to 2bighas 10 biswas land of the petitioners' comprised in khasranos.748 (2-06) and 359 (0-4) (new numbers 23/22/2 and 28/4/1), situated in the revenue estate of Village Bamnoli, NCT of Delhi.

AND

(ii) issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioners over 2 bighas 10 biswas land of the petitioners' comprised in khasra nos.748 (2-06) and 359(0-4) (new numbers 23/22/2 and 28/4/1), situated in the revenue estate of Village Bamnoli, NCT of Delhi.

(ii) pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 4th November 2004, followed by declaration under Section 6 of the LAA on 31st October 2005. The impugned Award No. 1/2007-2008 was passed on 6th August 2008. 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 submitted that the possession of Khasra No.23//22/2 (2-06) and 28/4/1 (1-08) was taken and handed over to the beneficiary department on 14th September 2007 and 6th May 2010 respectively. It is also submitted that compensation amount of Rs. 13,33,469.45/- was duly deposited with the reference court vide cheque no. 810917 dated 16th August 2010.

4. There is no rejoinder to the counter- affidavit of the LAC. In any event, the assertion by the Petitioners that they continue to remain in possession of the land or that no compensation was tendered gives rise to disputed questions of fact which cannot possibly be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

5. 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.”

6. The above decision was 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 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.”

7. 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.

8. 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.

9. The interim order passed on 26th April 2017 which stood confirmed on 30th October 2017 stands vacated.

S.MURALIDHAR, J.

VINOD GOEL, J.

FEBRUARY 8, 2019

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