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

+ **W.P.(C) 4568/2015**

NANAK CHAND

..... Petitioner

Through: Mr. Akhil Sachar with Ms.  
Sunanada Sulsyan, Advocate.

versus

THE LT. GOVERNOR, NCT OF DELHI & ORS. .... Respondents

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

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

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**06.08.2019**

1. The prayers in the petition read as under:

“a) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and after examining the legality and validity of the Notification dated 22.8.2001 being No. F. 10(4)/97/L&B/LA/7329 issued under Section 4 of the Land Acquisition Act, 1894 issued in respect of the land forming part of Village Bhorgarh quash and set aside the same;

b) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and after examining the legality and validity of the declaration dated 26.7.2002 being No.F.10(4)/97/L&B/LA/7910 under Section 6 of the Land Acquisition Act,1894 quash and set aside the same;

c) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and after examining the legality and validity of the Award No. 03/DC(N)/04.05 dated 7.5.2004 (Annexure- C to the Writ Petition) quash and set aside the same;

d) Issue a Writ, Order or direction in the nature of Mandamus and/or a Writ, order or direction in the nature of Mandamus calling for the records of the case and after examining the legality and validity of the same direct the Respondents not to interfere/dispossess the Petitioner from their lands forming part of Khasra Numbers as indicated in Schedule-A;

e) Issue a Declaration that the acquisition proceedings with respect to the land of the Petitioner as indicated in Schedule-A be deemed to have lapsed.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 22<sup>nd</sup> August 2001, followed by declaration under Section 6 of the LAA on 26<sup>th</sup> July 2002. The impugned Award No.03/DC (N)/04.05 was passed on 7<sup>th</sup> May 2004. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. It is an admitted fact in Para 5(b) of the petition that the Petitioner received compensation from the LAC. It is stated that after the award was passed, the Petitioner received a meagre amount of compensation at the rate of Rs.15,70,000/- per acre, which he received under protest. It is stated that the Respondents prepared illegal paper proceedings dated 7<sup>th</sup> October 2004 and the Petitioner is still in possession of the subject lands.

4. In the counter-affidavit filed on behalf of the LAC it is submitted that physical possession of Khasra No. 64/10(4-16) and 65/6/3 (1-15) was taken over by the LAC and handed over to the DDA on 7<sup>th</sup> October 2004. On the aspect of compensation it is stated that the compensation was paid to the recorded owners on 5<sup>th</sup> November 2004 itself by cheque number 567719 dated 5<sup>th</sup> November 2004 amounting to Rs.17,41,370/-. The Petitioner moved an application seeking release of compensation in view of the fact that the possession of the land was taken from him. It is further submitted that since the Petitioner has accepted the compensation, he has lost his right to challenge the acquisition proceedings.

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 physical possession of the subject land was handed over by the LAC on 7<sup>th</sup> October 2004. It is submitted that an amount of Rs.9,65,08,458/- and Rs.2,30,10,118/- was sent to the LAC as compensation with respect to Award No. 03/DC(NW)/ 2004-05.

6. No rejoinder has been filed by the Petitioner to the counter affidavits of the LAC or the DDA.

7. In any event, the assertion by the Petitioner that he continues to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. On the aspect of laches, in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 a three Judge Bench of the Supreme Court held 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 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 as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183* 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.

11. The interim order dated 8<sup>th</sup> May 2015 passed by this court which stood confirmed on 9<sup>th</sup> February 2018 is hereby vacated.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**AUGUST 06, 2019**  
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