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

+ **W.P.(C) 4663/2015**

RANBIR SINGH & ORS

.... Petitioners

Through: Mr. Soumya Das and Mr. N.
Prabhakar, Advocates.

versus

THE HON'BLE LT. GOVERNOR & ORS.... Respondents

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

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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18.07.2019

1. The prayers in the present petition read as under:

“a. Issue a writ in the nature of certiorari/order or direction quashing the acquisition proceedings with respect to the agricultural land measuring 66 Bighas and 06 Biswas of land in the Khasra number 433/221 in the village Ladha Sarai, New Delhi; culminating in the award no. 21/89-90 dt. 16.10.1989

b. issue a writ of mandamus/in the nature of mandamus or any suitable directions to the respondent no.3 to restore the aforesaid land to the petitioners/ their representative as the same remains unutilized till date;

c. issue a writ of mandamus directing the respondent number 4 to make commensurate changes in the record of rights in favour

of the petitioners and other legal representatives of the original predecessors in interest.”

2. The background facts are that the land in question i.e. 66 *Bighas* and 6 *Biswas* in Khasra No. 433/221 in the village Ladha Sarai, New Delhi (hereafter, ‘subject land’) was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd January, 1965 for the “planned development of Delhi”. A declaration under Section 6 of the LAA was thereafter issued on 7th December, 1966. The Land Acquisition Collector (‘LAC’) passed an Award No. 21/89-90 on 16th October, 1989.

3. As far as the Petitioners are concerned, it is stated in the petition that the Petitioner No. 1 and the predecessors-in-interest of one Shri Khayali Ram, are “tenants in common having an equal but undivided interest” in the subject land. It is stated that Petitioners No. 2 to 4 are the sons of the predecessors-in-interest of Shri Khayali Ram.

4. It is averred in the petition that the possession of the subject land had not been taken until the disposal by this Court of a writ petition filed by Shri Khayali Ram on 8th February, 2008. It is averred that possession of the subject land was taken on 16th May, 2008. A copy of the possession proceedings has been enclosed with the petition. It is also averred that although compensation for large pockets of the land that was the subject matter of the impugned Award had been paid, no compensation had been offered to the Petitioners or their predecessors-in-interest on the subject land. It is stated that the compensation amount of Rs.8,36,025.55 was

deposited in the Court of the learned Additional District Judge (ADJ), Saket by way of cheque No. 771757 dated 18th of October 2011 on 24th April 2012. However, the Petitioners were never informed about it. It is averred that since the aforesaid cheque had no validity, another cheque [No. 478528] dated 22nd October, 2012 for the same amount was deposited in the Court of the ADJ on 1st December, 2012. A copy of the correspondence between the office of the LAC and the Court of the ADJ, Saket has been annexed to the petition. It is contended that “compensation cannot be regarded as having been paid merely on the deposit of the same in court unless and until it has first been offered to the person interested and he has refused to accept the same.” Thereafter, the petition refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013 (‘2013 Act’). The Petitioners contend that they are entitled to a declaration of deemed lapsing of land acquisition proceedings on the ground that compensation had not been tendered to them.

5. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit filed by the LAC, it is averred that physical possession of the portion of land admeasuring (63-02) was taken by preparing possession proceedings and that the possession was handed over to the DDA on the spot. Possession of the remaining land could not be taken as the land was “built-up”. As regards compensation, it is averred that since there was a dispute concerning apportionment, the compensation was deposited in the Reference Court. It is further submitted that the petition is liable to be dismissed as the “petitioner No. 1 and fathers of petitioner No. 2- 4 have 1/8th share each out of the said land whereas the present writ petition has

been filed by the Petitioner No. 2- 4 excluding the rights of the other legal heirs of their respective fathers.” Importantly, it is pointed out that the General Power of Attorney filed along with the petition is not relevant as it makes no mention of the Khasra numbers of the subject land.

6. In the counter affidavit filed by the DDA, it is averred that the Petitioners have not shown anything to demonstrate that their names were included in the award and that therefore, they do not have the *locus* to file the present petition. It is averred that possession of 63 *Bighas* and 2 *Biswas* of land was taken and handed over to the DDA on 16th May, 2008. It is stated that possession of the remaining land could not be taken due to the land being built-up. It is also averred that the compensation was paid through a revolving fund to the L&B Department.

7. A rejoinder has been filed on behalf of the Petitioners to the counter affidavit of the DDA, wherein it is stated that the Petitioners forfeit their claim over 1 *Bigha* and 5 *Biswas* of the subject land, over which the one Hari Chand and his legal representatives have staked a claim. It is averred that depositing the entirety of the compensation amount in the Court of the ADJ was not warranted as there was no dispute as to the apportionment qua the Petitioners’ portion of the land. No rejoinder has been filed on behalf of the Petitioner to the counter affidavit of the LAC.

8. It is admitted by the Petitioners that possession of the land was duly taken and that compensation was deposited in the Court of the ADJ, Saket. With possession having been taken and compensation deposited in the Court of

the ADJ, none of the conditions for seeking relief under the 2013 Act stand fulfilled. The fact further remains that there is no attempt anywhere in the petition to explain the inordinate delay in approaching the Court for relief.

9. On the aspect of laches, in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 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.”

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

11. 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 (2014) 3 SCC 183 regarding the tendering of compensation, and 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 its decision in *Mool Chand v. Union of India (supra)*.

12. 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.

TALWANT SINGH, J.

JULY 18, 2019
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