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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8260/2014

RASHMI AHUJA SEHGAL

.... Petitioner

Through: Mr. Swastik Singh, Advocate

Mr. Himanshu Sagar, Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Sanjay Kumar Pathak, Mr.
K.K. Kiran Pathak, Mr, Sunil
Kumar Jha and Mr. M.S. Akhtar,
Advocates for Respondent No. 1
& 2.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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25.07.2019

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

“A. Issue of an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of Petitioner comprised in Khasra no. 911/577 total admeasuring 1 Bigha 1 Biswa, situated in Revenue Estate of Village Maidangarhi, New Delhi, to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013;

B. Issue an appropriate writ, order or directions in the nature of certiorari quashing the impugned notification bearing no. F.9 (16)/80-L&B dated 25.11.1980 issued under Section 4,

impugned declaration bearing notification no. F.9 (28)/85-L&B dated 7.06.1985 issued under Section 6 of the Land Acquisition Act, 1894 and the Award no. 23/1987-1988 with respect to the above said land of the Petitioner.”

2. The background facts are that the land in question i.e. 1 *Bigha* 1 *Biswa* in Khasra No. 911/577 situated in the Revenue Estate Village Maidangarhi (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 15th November, 1980 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 7th June, 1985. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 23/87-88 in 1987.

3. As far as the Petitioners are concerned, it is stated in the petition that the recorded owners Shri Ram Avtar, Shri Man Singh and Shri Bhagwant Singh transferred the subject land to one Shri Bhupinder Singh Kochar by way of a registered General Power of Attorney (‘GPA’) and an Agreement to Sell (‘ATS’) dated 8th November, 1988. On 1st February, 2000 the Petitioner purchased the subject land from Shri Bhupinder Singh Kochar by way of a General Power of Attorney, dated 1st February, 2000. A copy of all the aforesaid documents have been annexed with the petition. Apart from these not being valid instruments for transfer of title, it appears that the Petitioner having full knowledge of the status of the land in question, and without taking permission from the competent authority, in terms of the Delhi Land (Restriction of Transfer) Act, 1972 entered into the said transaction.

4. It is averred in the petition that mere paper possession of the subject land has been taken and the Petitioners continue to be in actual physical possession of the subject land. A copy of the possession proceedings have been annexed with the petition. As regards compensation, it is averred that compensation was neither paid nor offered to either the recorded owners or the Petitioner. Thereafter, the petition straightaway refers to the passage of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing on the ground that neither was possession taken nor was compensation paid.

5. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that the Petitioner has approached the court after inordinate delay and that on that count alone, the writ petition is liable to be dismissed. It is further stated that possession of the subject land was taken on 16th July, 1987 and that compensation was paid to the Shri Ram Avtar, Shri Man Singh and Shri Bhagwat Singh, which is evidenced by the *Naksha Muntazamin*.

6. In the counter affidavit filed on behalf of the DDA, it is averred that compensation of Rs.100 crores was disbursed by the DDA to the LAC/L&B Department for the acquisition of 13 villages in Maidangarhi. It is further averred that possession of the subject land was taken and handed over to the DDA on 16th July, 1987. It is also averred that the writ petition is barred by delay and laches.

7. No rejoinder has been filed on behalf of the Petitioner. Be that as it may, the assertion of the Petitioner that the possession of the land has not been taken and compensation not paid, gives rise to disputed questions of fact, which cannot be examined in the present petition. The fact further remains that there is no explanation in the petition for the inordinate delay in approaching the Court for 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 of India 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 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.”

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 (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 (2019)173 DRJ 595 (DB)*.

10. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 28th November, 2014 as confirmed on 2nd April, 2018 hereby stands vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 25, 2019
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