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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8147/2016 & CM 33716/2016

WAKIL KHAN AND ANR.

..... Petitioners

Through: Ms Maldeep Sidhu, Advocate.

versus

GOVT OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr Siddharth Panda, Advocate for
LAC/L&B.

Ms Niharika Ahluwalia and Ms
Anantika Singh, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

30.01.2019

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1. 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 proceedings initiated by Notification No. F.4(2) L & H dated 23.01.1965 under section 4 and Declaration No. F. 4 (2) 65 L& H, dated 13 01.1969 under section 6 of the Land Acquisition Act, 1894, qua the petitioner land bearing Khasra No.345(4 - 16) and Khasra No.342 (3 - 2) in Village PulPehlad, New Delhi, resulting in Award No.63 / 1982-83, 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) further, to direct the respondents to place the petitioner in

physical possession of their land bearing Khasra No.345(4 - 16) and Khasra No. 342 (3 - 2) in Village Pul Pehlad, New Delhi resulting in Award No.63/1982-83, without any cloud in their title or possession and alternatively, since no compensation has been paid to the petitioner/their forefathers, in respect of this entire land, till date. In case the respondents wish to acquire the said land they are to do so, under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

- iii) pass such other order or directions as may be deemed fit and proper in the facts and circumstances of the case in favour of the petitioner and against the respondents.
- iv) Costs of this petition may be allowed in favour the petitioner and against the respondents.”

2. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd January 1965, followed by a declaration under Section 6 LAA on 13th January, 1969 and an award dated 31st January 1983. There is no explanation in the entire petition for the inordinate delay in approaching the Court for relief except stating that after the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’), which came into effect on 1st January, 2014, the Petitioner was entitled under Section 24 (2) of the 2013 Act to a declaration of deemed lapsing of the land acquisition proceedings.

3. 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.”

4. The above decision was reaffirmed by a Three-Judge Bench in That judgment in *Indore Development Authority v. Shailendra* (*supra*) rendered by a Three-Judge Bench of the Supreme Court continues to hold the field till date. In the said judgment, it was observed in paragraphs 128 to 130 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.”

5. Consequently, the petition is dismissed on account of laches. The interim order dated 16th September 2016 is hereby vacated. The application is dismissed. No costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 30, 2019
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