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

+ **W.P.(C) 5044/2015**

ROHTAS SINGH & ANR. Petitioners
Through: Mr.N.Prabhakar, Advocate with
Mr.Dhruv Sharma and Ms.Saumya
Das, Advocates.

versus

THE HONORABLE LT. GOVERNOR & ORS. Respondents
Through: Mr.Yeeshu Jain, Advocate with
Ms.Jyoti Tyagi, Advocate for L & B/
LAC.
Mr.Kush Sharma, ASC with
Ms.Asiya Khan and Mr.Varun
Sharma, Advocates for R-3/DDA.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

ORDER
% **26.03.2019**

1. The prayers in the petition read as under:

“a. Issue a writ in the nature of certiorari/order or direction quashing the acquisition proceedings, as having lapsed, with respect to the agricultural land measuring 17 Bighas and 04 Biswas of land described in the paragraph number 1 of the petition i.e the land measuring 15 Biswas in khasra number 2544/1245, 6 Bighas and 2 Biswas in khasra number 2546/1246, 10 Bighas and 07 Biswas in the khasra number 2548/1247 in the village Mehrauli, New Delhi;

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 or in the alternative direct the payment of compensation as per the provisions of the

New Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013.

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 if no compensation as per the New Act is paid;

d. pass any other order/suitable directions as this Honourable court deems just and appropriate in the facts and circumstances of the case.”

2. The facts that are not in dispute are that a notification under Section 4 under the Land Acquisition Act 1894 (LAA) for acquisition of the above land was issued on 23rd January 1965. This was followed by a declaration under Section 6 of LAA on 7th December 1966 and an Award No.80E/70-71 dated 9th January 1981.

3. According to the counter affidavit filed by the Land Acquisition Collector (‘LAC’) actual physical possession of the land was taken on 27th September 1981 and handed over to the requisitioning agency at the spot. In relation to the claim of the Petitioners that no compensation has been tendered, it is averred in the counter affidavit filed by the LAC that “there was a dispute over the payment of compensation and a lot of people have filed claims”. A reference is made to an order dated 17th February 1984 in terms of which the compensation amount was deposited in the Court of the Additional District Judge (ADJ). A separate counter affidavit has been filed by the DDA enclosing the possession proceedings dated 23rd September 1981. The

assertion by the Petitioners that they continued to remain in possession of the land in question has been disputed both by the LAC as well as the DDA. Incidentally, no rejoinder has been filed to either counter affidavit of the LAC or the DDA. It gives rise to therefore the disputed question of facts which cannot be examined in the present petition.

4. In seeking to explain the inordinate delay in approaching the Court, Mr. Prabhakar, learned counsel for the Petitioners, submits that since on frivolous grounds a reference was made to the Court of the learned ADJ way back in 1984, the LAC was precluded from disbursing compensation till such time a decision was not rendered by the learned ADJ. This according to him is the explanation for the Petitioner not coming to the Court earlier for relief. He places reliance on the decisions in the ***Jai Kishan v. Union of India & Ors.* 129 (2006) DLT 745**, ***Meher Rusi Dalal v. Union Of India & Ors.* (2004) 7 SCC 362** and ***Sharda Devi v. State of Bihar & Ors.* (2003) 3 SCC 128** to urge that it is obligatory on the part of the LAC to provide reasons for making a reference under Section 30-31 of the LAA and that in the present case the frivolous reference made has precluded the disbursal of compensation to the Petitioners.

5. The above submissions still do not provide a satisfactory explanation for the delay of over 50 years in coming to the Court seeking relief in relation to land acquisition. On the aspect of laches and delay, in ***Indore Development Authority v. Shailendra* (2018) 3 SCC 412** the Supreme Court 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 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/negatived, 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.”

6. 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 (supra)* 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*.

7. Consequently, the petition is dismissed both on the ground of laches as well as merits. The interim order, if any, stands vacated.

S.MURALIDHAR, J.

I.S.MEHTA, J.

MARCH 26, 2019

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