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

\+ **W.P.(C) 5045/2015**

MAHENDER SINGH & ORS ..... Petitioners

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

versus

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

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

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **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 15Bighas 18 Biswas of land, situated in the village Mehrauli, New Delhi, described in the para 9 of the petition i.e
>
> (i) 9 Bighas and 5 Biswas in Khasra number584, no compensation has been paid till date although the physical possession thereof had been taken way back on 23rd September1981;

(ii)Land measuring 6 Bighas and 13 Biswas as described in the Khasra numbers2325/1240/1, 1231/04 and 2320/1224/1qua which neither has the actual physical possession been taken and nor has the compensation been paid;

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, the compensation whereof has not been paid to the petitioners/ their representatives

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. 9 *Bighas* 5 *Biswas* in Khasra No. 584 and 6 *Bighas* 13 *Biswas* in Khasra Nos. 2325/1240/1, 1231/04 and 2320/1224/1 (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 23rd January, 1965 for the public purpose of "planned development of Delhi". A declaration under Section 6 of the LAA was issued on 7th December, 1966. The Land Acquisition Collector ('LAC') passed Award No. 80-E/70-71 (SLTP) on 9th January, 1981.

3. As far as the Petitioners are concerned, it is stated that the predecessors-in-interest of the Petitioners had an undivided interest in 52 *Bighas* and 10 *Biswas*. It is further stated that each of the Petitioners represents a branch of his predecessor-in-interest and has been authorized by the other living members to file the instant petition. It is stated that possession of all except portions of the subject land was taken on 23rd September, 1981. A copy of the possession proceedings has been annexed to the petition. As regards compensation, it is

stated that compensation was limited to an area of 36 *Bighas* 12 *Biswas*, which it is stated, is evident from the *Naksha Muntazamin.* A copy thereof has been annexed to the petition. It is further averred that compensation with respect to 9 *Bighas* and 5 *Biswas* of Khasra No. 584 remains unpaid. It is also averred that compensation has not been paid in respect of the entirety of the Khasra Nos.2325/1240/1,1231/04 and 2320/1224/1. 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 both conditions of the 2013 Act have been fulfilled.

4. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that actual vacant possession of the majority of land was taken on 23rd September, 1981. It is further stated that possession of Khasra Nos.2320/1224/1 (2-13), 2325/1240/1(3-14) and 1231/4(0-6) could not be taken. As regards compensation, a table setting out the status of payment of compensation for the portions of the land of which possession has been taken, has been set out. There, the names of the Petitioners' predecessors-in-interest, viz., Ram Narayan, Gyani Ram, Changdi Ram, Tek Chand, Phool Singh and Nand Lal figures at Sl.Nos.1, 8, 9, 10, 11, 12 and 13 respectively. It is further averred that the subject land was not partitioned. It is pointed out that where certain co-sharers have received compensation for the undivided land, the Petitioners cannot contend that the acquisition proceedings have lapsed.

5. In the counter affidavit filed on behalf of the DDA, it is averred that possession of a vast portion of the land was handed over to the DDA by the LAC and that possession of Khasra No. 2320/1224/1(2-13), 2325/1240/1(3-14), 1231/4(0-6) could not be taken. A copy of the possession proceedings dated 23rd September 1981 has been annexed to the counter affidavit. It is further averred that compensation in respect of the entirety of 52 *Bighas* and 10 *Biswas* was disbursed by the DDA to the L&B Department/LAC through a revolving fund.

6. No rejoinder has been filed by the Petitioners to the counter affidavits of the LAC or the DDA. Be that as it may, the the assertion by the Petitioners that they continued to remain in possession of the land in question or that they are entitled to compensation gives rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

7.On the aspect of laches, in ***Indore Development Authority v. Shailendra (2018) 3 SCC 412*** it was observed by a three-Judge Bench of the Supreme Court 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 of2013. 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."

8. 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. 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)*.

9. For the aforementioned reasons, the writ petition is dismissed on the ground of laches, but in the circumstances with no order as to costs.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 18, 2019/abc