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

+ **W.P.(C) 4254/2017**

SH. BHAGWAT & ORS.

..... Petitioners

Through: Ms. Dipti Singh, Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Shobhna Takiar with Ms. Shivani
Jain for DDA

Mr. Yeeshu Jain, Standing Counsel and Ms. Jyoti
Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

19.03.2019

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1. The prayers in the petition read as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings i.e. section 4 notification dated 23.06.1989, declaration under section 6 & notification under section 17 special power used by collector dated 22.06.1990 and Award no. 21/92-93 dated 10.06.1992 in respect of petitioner's land admeasuring 1560 sq. yds. of Khasra No. 446 min falling in the Revenue Estate of Village Jasola, Tehsil Mehrauli, Jamia Nagar, New Delhi including the notification bearing No. F9(1)89/L&B dated 23/06/1989 issued under Section 4 of the Land Acquisition Act, 1894 and all subsequent Acquisition proceedings to have lapsed in view of Section 24(2) of "THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013".

ii. Issue a writ of certiorari thereby quashing the acquisition proceedings i.e. section 4 notification dated 23.06.1989, section 6 declaration and Section 17 special power used by collector dated 22.06.1990 and award no. 21/92-93 in respect of the petitioner's land i.e. 1560 sq. yds. in khasra no. 446 situated in village jasola, Tehsil Mehrauli, Jamia Nagar, New Delhi 110025.

iii. Issue a writ of Mandamus directing the respondents not to in any manner whatsoever; interfere with the peaceful possession of the said land.

iv. Pass such other(s) or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd June 1969, followed by declaration under Section 6 of the LAA on 22nd June 1989. The impugned Award No. 21/92-93 was passed on 18th June 1992. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No. 446 (3-07) was taken and handed over to the DDA on 19th January 2006. It is also submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that “The compensation of the land under reference however could not be paid to the recorded owner as per NM and the Statement 'A' is not available.”

4. No rejoinder has been filed by the Petitioners to the counter affidavit of

the LAC.

5. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question or that compensation was not tendered gives rise to disputed questions of fact which cannot be examined in these proceedings. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. 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.”

7. The above observations have been reiterated in the judgment of the three

Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 where it was 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.”

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

9. 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.

10. The interim order dated 16th May 2017 which stood confirmed on 14th November 2017 stands vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 19, 2019

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