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

+ **W.P.(C) 9526/2018 and C.M. No. 37107/2018 (stay)**

MONU SINGH

.... Petitioner

Through: Ms. Bhavana Jain, Advocate, for
Mr. R. K. Saini, Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Sachin Nawani, Advocate for
Respondent No. 1.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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06.08.2019

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

“a. issue a writ, order or direction in the nature of certiorari calling for the records of the case for perusal.

b. issue a writ, order or direction in the nature of mandamus declaring that the acquisition proceedings under Award No. 19/76-77 in respect of the land measuring 16 biswas in Field No. 16, Village Kotla, Delhi in possession of the petitioner stand lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

c. issue a writ, order or direction in the nature of a writ of mandamus directing the respondents to pay the cost of this petition to the petitioner.”

2. The background facts are that 1443 *Bighas* 4 *Biswas* land in Village Kotla, Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 13th November, 1959 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 20th June, 1966. Thereafter, the Land Acquisition Collector (‘LAC’) made an Award No. 19/76-77 (‘the Award’) dated 5th January, 1977 under Section 11 of the LAA. Possession proceedings for taking possession of the land under award were conducted on 25th April, 1977. However, possession in respect of certain land, including the 16 *Biswas* comprised in Khasra No. 16 (hereafter, ‘subject land’), was excluded from the said proceedings.

3. As far as the Petitioner is concerned, it is averred that the Petitioner came upon the ownership of the subject land upon the passing of their father and predecessor-in-interest Shri Kartar Singh on 19th July, 2003, which is reflected in the *Khasra Girdawari* annexed to the petition. It is further averred by the Petitioners that Respondent No. 3 has been interfering with the “peaceful use and enjoyment” of the subject land since 2011, against which the Petitioner has variously approached the Karkardooma Court in Suit No. 247/2011, and this Court in W.P.(C.) 5601/2012 and W.P.(C.) 1461/2014. It is averred by the Petitioner that physical possession of the subject land has not been taken by the LAC and its possession has not been handed over to the Delhi Development

Authority ('DDA'). It is also averred by the Petitioner that no compensation in respect of the subject land has been paid or tendered to the Petitioner or his predecessor-in-interest.

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 the writ petition is liable to be dismissed on the ground of delay and laches, since the Petitioner has approached this Court after 4 years of the coming into force of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 ('2013 Act') on 1 January, 2014. It is also averred that the Petitioner has no *locus* to file the instant petition as the *Gaon Sabha* is the recorded owner of the subject land. It is further averred that the Revenue Deposit Register records that compensation of a sum of Rs.4,95,203/- has been sent to the Additional District Judge ('ADJ'), Delhi under Sections 30 and 31 of the LAA and a balance sum of Rs. 6,187.39 has been deposited in the Revenue Deposit.

5. In the counter-affidavit of the DDA, it is averred that the instant petition is liable to be dismissed on the ground of delay and laches. It is also averred that the Petitioner's ownership and possession of the subject land are in doubt, because no reliable title documents have been produced by the Petitioner. It is further averred that the acquisition proceedings were duly concluded on 25th April, 1977 and compensation has been duly deposited in the revolving fund. Moreover, it is averred that the instant petition is liable to be dismissed as being

barred for *Res Judicata* in view of the orders made in the aforesaid previous proceedings instituted by the Petitioner.

6. It emerges, on the Petitioner's own showing, that this Court's decision in W.P.(C.) 1461/2014 settled the matter decidedly in the Respondents' favour. The Petitioner had in those proceedings admittedly based his claims on a Notification dated 12th December 2007 issued by the Lieutenant Governor, Delhi which defined 'private land' as 'all lands vested in *Gaon Sabha*' under Section 81 of the Delhi Land Reforms Act, 1954 ('DLRA') where the physical possession is with the original landowners. This Court, in its judgment dated 30th October, 2017 dismissed this claim of the Petitioner, observing that the Petitioner had not disputed that the subject land belonged to the *Gaon Sabha*. This Court referred to a previous notification dated 5th October 1989 issued under Section 150 (3)(a) of the DLRA, which placed all *Gaon Sabha* lands under the Central Government, which were in turn placed at the disposal of the DDA by the Lieutenant Governor in exercise of the powers under Section 22(1) of the Delhi Development Act, 1957. Thus, the notification dated 12th December 2007, sought to be relied upon by the Petitioner, did not apply to the subject land. Consequently the issue of payment to the Petitioner of compensation for the acquisition of the above land does not arise.

7. Be that as it may, another aspect is that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for relief. 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.”

8. 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).

9. For the aforementioned reasons, the writ petition is dismissed. The application for stay is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 06, 2019

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