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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 9905/2016

USHA TIWARI

..... Petitioner

Through: Mr. N.S. Vasisht and Ms. Jyoti
Kathuria, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Arpit Shukla, Advocate for
Respondent No.1 &2.
Mr Siddharth Panda, Advocate for
LAC/L&B
Mr Arun Birbal, Advocate for
Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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29.01.2019

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

- (i) issue a writ of certiorari and/or any other writ, order ordirection of the similar nature declaring the entire acquisitionwith respect to 1 Bigha of land comprised in Khasra No.613,situated in revenue Estate of Village Maidan Garhi, NOTDelhi having lapsed and further quashing the impugned notification No. F.9(16)/80-L&B dated 25.11.1980 issuedunder section 4, Notification No.F.9(28)/85-L&B dated18.06.1985 issued under Section 6 of the Land AcquisitionAct, 1894 and the Award no.23/87-88 with respect to 1 Bighaof agricultural land of the Petitioner comprised in KhasraNo.760/596, situated in revenue Estate of Village MaidanGarhi, NOT Delhi.

AND

- (ii) issue a writ of mandamus and/or any other writ, order anddirection of the similar nature issuing directions to the

Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 1 Bigha of agricultural land of the Petitioner comprised in Khasra No.760/596, situated in revenue Estate of Village Maidan Garhi, NOT Delhi.

- (iii) pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued on 25th November 1980 followed by declaration under Section 6 LAA on 7th June 1985. The Award No. 23/87-88 was made under Section 11 of LAA way back on 17th June 1987.

3. There is no attempt made in the writ petition to explain the inordinate delay in approaching the Court for the reliefs in terms of Section 24 (3) of the 2013 Act. According to Mr. N.S. Vasisht, learned counsel for the Petitioners, since possession was not taken and the entire compensation amount was not paid, there was no occasion for the Petitioners to seek any relief till the passing of the 2013 Act.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the Petitioner has not filed any revenue or any title documents to support the contention that the Petitioner or her predecessors-in-interest were ever the recorded owners of the land. It is also submitted in Para 8 of the counter-affidavit that the possession of the land in question was taken over and handed over to the beneficiary department on 16th July 1987.

5. In the counter-affidavit filed by the DDA, it is stated that the petition is barred by delay and laches. It is submitted that the land was subject matter of acquisition vide the notification bearing no. F.9 (16)/80/L&B dated 25th November 1980 under section 4 and the declaration bearing no.

F.9(28)/85/L&B dated 18th June 1985. The Physical possession of the land in issue was handed over to DDA by the Land Acquisition Collector on 16th July 1987.

6. There is no rejoinder filed to the counter-affidavits of the DDA or LAC. 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 *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.”

8. The above observations have been reiterated in the judgment of the three Judge Bench 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.”

9. The above observations have been followed by this Court in several orders including the order dated 10th January, 2019 in WP(C) No. 4528/2015 (*Moolchand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

10. 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.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 29, 2019

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