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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9644/2018 and C.M. No. 37499/2018 (stay)

NISHITH BANSAL

.... Petitioners

Through: Ms. Jyoti Mendiratta,
Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Ms. Archana Gaur and
Ms. Ridhima Gaur, Advocates for
Union of India.

Mr. Yeeshu Jain and Ms. Jyoti
Tyagi, Advocates for LAC/L&B.
Mr. Anil Kathuria for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

20.08.2019

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

“a. issue a writ of certiorari or any other appropriate writ, order or direction in the nature thereof quashing Notification No. F. 9(1)/89 – L&B/18 577 dated 23rd June, 1989 under Section 4 of the Land Acquisition Act, 1894 and Notification No. F. 9(1)/89 – L&B/2 dated 22.06.1990 under Section 6 of the Land

Acquisition Act, 1894 and consequent Notification No. F. 9(1)/89 – L&B/3 dated 22.06.1990 under Section 17(1) of the Land Acquisition Act, 1984, *inter-alia* in respect of the land comprised in Khasra No. 59 situated in the Revenue Estate of Village Behlolpur, Khadar, Tehsil Mehrauli, New Delhi belonging to the petitioner and Award No. 15/1992-93 dated 19.06.1992 made in respect thereof being arbitrary, discriminatory, illegal, malafide, unconstitutional and void

b. declare that the impugned acquisition/notifications have lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

c. issue a writ of prohibition or any other appropriate writ, order or direction in the nature thereof restraining the respondents from interfering with the peaceful enjoyment and possession of the land in question.”

2. The background facts are that the land in question i.e. Khasra No. 59 (‘subject land’) admeasuring 1 *Bigha* situated in Village Behlolpur, Khadar, Tehsil Mehrauli, New Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd June, 1989 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 22nd June, 1990. Moreover, the Collector was directed under Section 17(1) of the LAA on 28th June, 1990 to take possession of the subject land on the expiry of fifteen days from the publication of a notice under Section 9(1) of the LAA. Thereafter, the Land Acquisition Collector

(‘LAC’) made an Award No. 15/1992-93 (‘the Award’) dated 19th June, 1992 under Section 11 of the LAA.

3. The Petitioner claims that he became the owner of the subject land upon the death of his father and predecessor-in-interest on 9th July, 1997. It is further averred by the Petitioner that his father purchased the subject land by way of a Registered Sale Deed on 21st June, 1990. It is stated by the Petitioner that physical possession of the subject land has not been taken up and no compensation has been paid in respect of the subject land.

4. It is submitted by the Petitioner that this Court has previously quashed as many as 25 acquisition proceedings in respect of certain other lands comprised in the Award. Therefore, it is sought to be contended by the Petitioner that he is entitled to relief on parity of reasons.

5. 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/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 (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)*.

7. The Court has perused the orders earlier passed in the other petitions seeking similar relief in respect of lands acquired under the same notifications. All of those orders were passed prior to the judgment of the three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra (supra)* and, therefore, are of no assistance to the present Petitioner.

8. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 14th September, 2018 as continued on 7th January, 2019 is hereby vacated. The application is disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 20, 2019

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