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

+ **W.P.(C) 10147/2016**

SUBE SINGH & ORS.

..... Petitioners

Through: Mr. Arvind Kr. Gupta, Mr. Prashant
Bhardwaj Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Manish Mohan, CGSC with Ms.
Manisha Saroha for R-1/UOI
Mr. Sanjay Kumar Pathak, Mrs. K. Kaomudi Kiran
Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar for
L&B/LAC
Ms. Shobhna Takiar for DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

07.02.2019

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1. The prayers in the petition read as under:

“i) issue a writ of mandamus or any other appropriate writ, order or direction thereby, inter alia, declaring that acquisition proceedings in respect of the land belonging to the petitioners i.e. to the extent of 1/4th share each in land falling in Khasra No. 28, 34, 315/39, 320/112 situated in the revenue estate of Village Masoodpur, New Delhi, have been lapsed on the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

ii) issue a writ or any other appropriate writ, order or direction thereby direct the respondents not to interfere in the peaceful possession of the petitioners qua the land subject matter of the present writ petition;

iii) Issue a writ or any other appropriate writ, order or direction thereby direct the respondent to correct the revenue record by reflecting the names of petitioner in respect of land measuring 31 bighas 14 biswas in Khasra No. 28,34,315/39,320/112, in Village Masoodpur, New Delhi as owner in place of the Union of India i.e. respondent no. 1;

iv) Any other relief, order or direction which this Hon'ble Court deems fit and proper may also be passed in favour of the petitioners.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd January 1965, followed by declaration under Section 6 of the LAA on 23rd December 1968. The impugned Award No. 90/80-81 was passed on 22nd December 1980. 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/L&B, it is stated that the physical possession of Khasra Nos. 28, 34, 315/39 and 320/112 was taken on 29th December 1980. This is admitted in para 9 of the petition. As far as payment of compensation is concerned it is stated in para 9 of the counter-affidavit as under:

“So far as compensation amount is concerned, it is humbly submitted that Compensation amount has been partly paid to the interested person/petitioners and partly sent to the court of Additional District Judge vide Cheque No, 410844 under section 30-31 on 18.08.1981. in the LAC record, at item No. 65, Umed Singh S/o Sukh Lal, 1/28 share, at item No. 66- Sube Singh S/o Sukh Lai share 1/28 in land admeasuring 31-14 biswa, at item No. 67 Ram Kishan S/o Sukh Lai 1/28 share and at item No. 68 Ramesh Kumar S/o Sukh Lai, 1/28 share, at item No. 69 Sh. Jagpal s/o Shri Sukh Lai 1/28" share, item No. 70

Shri Satpal s/o Sukh Lai 1/28th share in land admeasuring (31-14) has been mentioned. The petitioners/recorded owners were made payment of the compensation amount which was not disputed and disputed amount was sent to the court of Additional District Judge.”

4. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra No. 288 (5-7), 28(8-11), 34(4-14), 315/39(1-01), 320/112(17-08) was acquired for “public purpose for planned development of Delhi.” The physical possession of this land was handed over to the DDA by LAC on 29th August 1985 and 29th December 1980 respectively. It is further submitted that payment of Rs. 10,00,000/- was released via cheque No. 906691 dated 19th December 1980 and of Rs. 17,37,385/- was released via cheque no. 908137 dated 9th January 1981 to LAC/L&B as compensation for acquiring the subject land via Award No. 90/1980-81.

5. No rejoinder has been filed to the counter-affidavit of the DDA. The rejoinder filed by the Petitioners to the counter affidavit of LAC merely reiterates the averments in the petition. On the aspect of compensation, the Petitioners claim that they have not received any compensation.

6. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question or that no compensation was tendered gives rise to disputed questions of fact which cannot possibly 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.

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 decision has been re-affirmed by 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 negated 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/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.”

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

(Mool Chand 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.

FEBRUARY 7, 2019

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