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

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**W.P.(C) 6258/2015 & CMs 11382/2015, 2941/2017 and 30288/2017**

**RAJ SINGH & ORS**

..... Petitioners

Through: Mr B.S. Mathur, Mr Rajat Mathur and  
Mr Divyank Tyagi, Advocates.

versus

**UNION OF INDIA & ORS**

..... Respondents

Through: Mr Dev P. Bhardwaj, CGSC for UOI  
with Mr Jatin Teotia, Advocates.

Mr Pawan Mathur, Standing Counsel  
for DDA.

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

**CORAM:**

**JUSTICE S. MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

**31.01.2019**

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**Dr. S. Muralidhar, J.:**

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

- i. issue a writ, order or direction declaring that the Petitioners are the lawful and exclusive co-owner of land admeasuring 28 Bighas 13 Biswas of land falling in Idiasras no. 52//9 (4-16), 52/12 (4-00), 52/13 (4-00), 52/14 (3-17), 53//18 (4-16), 53/23 (4-16), 53/24/2 (2-8) situated in the Revenue Estate Village Karala, Delhi;
- ii. direct the Respondents no.1 to 4 by issuing a writ of Mandamus not to proceed further in respect of Award No.22/2005-06/DC(N-W) of Village Karala, Delhi dated 02.01.2006 passed by the Land Acquisition Collector under the Land Acquisition Act, 1894 in respect of land in question belonging to the Petitioners;

- iii. direct the Respondents no.1 to 4 by issuing a writ of Mandamus not to interfere in the peaceful possession of the Petitioners in respect of aforesaid land in question holding that the acquisition proceeding initiated under Land Acquisition Act, 1894 have been lapsed on the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or;
- iv. pass any other or further order/s which this Hon'ble Court may deem just and proper in the facts and circumstances of the case, in the interest of justice and equity.”

2. From the narration in the petition, it is seen that the notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 21<sup>st</sup> March, 2003 for the public purpose of planned development of Delhi. This was followed by a declaration under Section 6 of the LAA on 19<sup>th</sup> March, 2004 and an award number 22/2005-06/DC (N-W) was passed on 2<sup>nd</sup> January, 2006.

3. According to the Petitioners, only 'paper/symbolic' possession was taken by the Land Acquisition Collector ('LAC') in respect of 12 Bighas of land falling in Khasras no.53//18 (4-16), 53/23 (4-16) and 53/24/2 (2-08) situated in the Revenue Estate of Village Karala, Delhi. According to the Petitioners, the actual physical possession is still with them. With respect to the remaining land falling in Khasra No. 52//9 (4-16), 52/12 (4-00), 52/13 (4-00), 52/14 (3-17), admeasuring 16 bighas 13 biswas, "not even the symbolic/paper possession has been taken by the Respondents". Thereafter, the petition straightway narrates that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

2013 ('2013 Act') was enacted and came into force on 1<sup>st</sup> January, 2014. As may be noted, there is no attempt made by the Petitioners to explain the delay in approaching the Court for relief.

4. In the counter affidavit filed by the DDA, it is stated, *inter alia*, that the Petitioners have deliberately not stated as to who the owner of the land in question was in respect of the above khasras at the time of issuance of the notification under Sections 4 and 6 of the LAA and the passing of the award. It is pointed out that the copy of the *khatoni* for the year 2003-04, enclosed with the petition as Annexure-P2 is illegible; does not appear to be properly stamped or issued in the specified Performa. It is stated that the authenticity of Annexure-P2 "is doubtful and the original be placed before the Court".

5. According to the DDA, Annexure-P3 to the petition, which are the relevant pages of the Award, does not disclose the ownership of the land falling in Khasra Nos. 53//18 (4-16), 53/23 (4-16), 53/24/2 (2-08) as belonging to the Petitioners. It is also pointed out that the Petitioners are not claiming any right in respect of the land in Khasra No. 52//2/1, 18 and 22.

6. It is stated that physical possession of Khasra Nos. 53//18 min, 53//23 min, 53//24/1 was handed over to the DDA by the LAC (South) on 23<sup>rd</sup> February, 2007. Details are also given about the deposit of compensation amount by the DDA with the LAC.

7. A separate counter affidavit has been filed by the LAC (North West). A plea is taken that the petition is barred by laches. According to the LAC also, possession was taken way back on 23<sup>rd</sup> February, 2007 "with the help of

demolition squad. However, the compensation of the subject land could not be paid.” It must be mentioned here that when the petition was listed for hearing on 3<sup>rd</sup> July, 2015, a *status quo* order was passed by the Court while directing notice to issue.

8. CM No.2941/2017 was filed by the DDA for vacating the said *status quo* order in view of the order dated 18<sup>th</sup> October, 2016 passed by the Supreme Court in certain applications in SLP (Civil) No.16385-88/2012 titled ***Rahul Gupta v. DDA***. In the said application, it was pointed out that the land in question in the present proceedings situated in Village Karala was acquired for the public purpose of “Rohini Residential Scheme, Phase-6 and Phase-5”. It was also pointed out that possession of the land in question, which was handed over by the LAC to the DDA on 23<sup>rd</sup> February, 2007, was transferred to the Rohini Residential Scheme on 18<sup>th</sup> July, 2007. The copies of the orders passed by the Supreme Court in the aforementioned case of ***Rahul Gupta v. Delhi Development Authority*** (*supra*) were enclosed with this application.

9. In the rejoinder filed by the Petitioners to the counter affidavit of the LAC, for the first time, a disclosure was made in paragraph (1) that “the entire lands of the Petitioners has been heavily built up, even prior to the year 1993, as unauthorized colony, namely, ‘Tirthankar Nagar Jain Colony’ Karala, Delhi. It is pointed out that a resident welfare association (‘RWA’) of the colony was registered in 1993 itself. According to the Petitioners, a considerable portion of the land had already been sold long back, even prior to the Section 4 notification by way of GPA etc “but in record, the same

continues to be in the name of the Petitioners”. It is further pointed out that ‘Tirthankar Nagar Jain Colony’ is listed at serial number 1064 in the list of 1639 unauthorized colonies being considered for regularization by the government. Copy of the certificate of provisional regularization dated 17<sup>th</sup> September, 2008 has been enclosed with the rejoinder as Annexure-P6 collectively. It is also admitted in paragraph (6) of the rejoinder that “the land on which the ‘Tirthankar Nagar Jain Colony’ has come up, including the lands of the Petitioners, was notified in the year 2003 for ‘Rohini Residential Scheme’ under Section 4 of the LAA and notified under Section 6 of the LAA. Enclosed with the rejoinder are the policy guidelines for regularization of unauthorized colonies. A detailed narration is set out of the said policy provisions. Reference is made to the NCT of Delhi (Special Provisions) Second Act, 2011, which came into force on 1<sup>st</sup> January, 2012 in terms of which “status quo of the unauthorized colonies which were in existence on 7<sup>th</sup> February, 2007 for a further period till 31<sup>st</sup> December, 2014”. It is accordingly contended that no coercive action can be taken against any colony till the issue of regularization is finally decided.

10. It will be seen from the above narration that for the first time in the rejoinder affidavit, the Petitioners have disclosed the correct facts about the lands in question forming part of unauthorized colony and being heavily built up. The Petitioners have also filed a CM No.30288/2017 seeking to place on record a copy of the reply dated 1<sup>st</sup> June, 2017 received by them in response to the information sought under the RTI Act, 2005 where it is stated as under:

“1.521/9(4-16).12(4-00),13(4-00), 14(3-17),53//18(4-16),23(4-

16) & 24/2(2-08) total (28-13) are acquired vide award no. 22/05-06 of village Karala. The said land is in the ownership rights of Baljeet Singh, Raj Singh, Zile Singh, Prakash Singh & Ashok Kumar Sslo Rattan Singh (with 1/5 share each) at Item no 526 to 530 These owners have not received their share of awarded compensation till date

2 The Govt has not taken the physical possession of abovesaid land so far.”

11. This Court has heard the submissions of Mr. B. S. Mathur, learned counsel for the Petitioners, Ms Jyoti Tyagi, learned counsel for the LAC/L&B and Mr Pawan Mathur, Standing Counsel for DDA.

12. The first of the difficulties that comes in the way of the Petitioners is the issue of delay and laches in pursuing the relief under Section 24 (2) of the 2013 Act. Admittedly, the Award in question was passed on 2<sup>nd</sup> January, 2006 itself. There is no explanation anywhere in the petition for the inordinate delay in approaching the Court for relief except stating that the 2013 Act came into force on 1<sup>st</sup> January, 2014.

13. 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.”

14. The above decision was reaffirmed by a three-Judge Bench of the Supreme Court in 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/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.”

15. Consequently, the present petition deserves to be dismissed only on the ground of laches.

16. The second difficulty in the way of the Petitioners is that although it is claimed that the ‘symbolic possession’ was taken of the land in question, the assertion of the Respondents is to the contrary. They have enclosed the possession proceedings which go to show that the physical possession was

in fact taken in the year 2007 itself. Added to this, is the order dated 18<sup>th</sup> October, 2016 of the Supreme Court in certain IAs in SLP(C) No. 16385-16388 of 2012 in ***Rahul Gupta v. Delhi Development Authority*** which states that the possession of the land acquired would be deemed to be with the DDA.

17. Mr Mathur contended the said order does not apply to the lands in question. According to him, they were confined to Sectors 34, 35, 36 and 37 of Rohini and not to lands in the Revenue Estate of Village Karala.

18. This Court has already rejected that plea in its order dated 22<sup>nd</sup> November, 2018 in CM Nos. 5755/2017 and 21248/2015 in W.P.(C) No.5111/2016 (***Jawahar Singh v Lt. Governor***). This has further been discussed by this Court in its judgment dated 25<sup>th</sup> January, 2019 in W.P.(C) No.3438/2015 (***Krishna Devi v Union of India***). To reiterate, this Court has in the aforementioned orders after discussing the orders dated 10<sup>th</sup> March, 2015, 28<sup>th</sup> January, 2016 as well as 18<sup>th</sup> October, 2016 passed by the Supreme Court in ***Rahul Gupta v. Delhi Development Authority & Ors.*** noted that in the last-mentioned order, the Supreme Court did not confine the scope of the orders to certain sectors of the Rohini Residential Scheme. Specifically, the Supreme Court observed as under in passing certain orders in IA Nos. 50-53 of 2015 in SLP(C) No. 16385-16388 of 2012 on 18<sup>th</sup> October 2016:

**“I.A. Nos.50-53 of 2015**

Heard Mr. V. Giri, learned Senior Counsel appearing for the applicants and perused the interlocutory applications.

In view of the order dated 10.3.2015, passed by this Court in SLP(C) Nos.16385-16388 of 2012, and a subsequent order dated 28.1.2016, passed in the same special leave petitions, the interim order passed by the High Court of Delhi on 04.3.2015 in W.P.(C) No.1915/2015, (Annexure A-4 in the instant interlocutory applications), is liable to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters, pertaining to land acquisition relating to the Rohini Residential Scheme, pending before the High Court, for vacation of similar interim directions.**

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and hand over its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

19. Further, just below the above order, a separate order was passed in IA No.58-61 of 2015 as under:

**“I.A. Nos.58-61 of 2015**

Mr. Narendar Hooda, learned Senior Counsel appearing for the applicants, after arguing for sometime, states that he may be permitted to withdraw the instant interlocutory applications.

We decline permission to the applicants to withdraw the same. We are of the view that in the interests of justice, the matter must be clarified, so that there is conformity and uniformity with this Court's orders dated 10.3.2015 and 28.1.2016, passed in SLP(C) Nos.16385-16388 of 2012.

In view of the above, we are satisfied that the interim order passed by the High Court of Delhi on 9.3.2015, in W.P.(C) No.1882/2015, (Annexure A-6, in the instant interlocutory applications) deserved to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters pertaining to land acquisition relating to the Rohini Residential Scheme, pending before the High Court**, for vacation of similar interim directions.

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and handover its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

20. It is, therefore, seen that the Supreme Court granted liberty to the DDA to produce the copy of the said order “in all matters pertaining to the land acquisition relating to Rohini Residential Scheme, pending before the High Court for vacation of similar interim directions”. Therefore, there can be no manner of doubt, after the order dated 18<sup>th</sup> October, 2016 that the aforementioned orders of the Supreme Court pertain not to only certain sectors of Rohini, but to the entire Rohini Residential Scheme. This plea of Mr Mathur is accordingly rejected. In the present case, by virtue of the aforementioned orders of the Supreme Court, possession of the lands in question should be deemed to be with the DDA since they have not been surrendered within ten days of the passing of the aforementioned order.

21. The third difficulty in the way of the Petitioners is that the lands in question forming part of an unauthorized colony. In this regard, this Court has in its order dated 10<sup>th</sup> January, 2019 in WP(C) No. 3630/2018 (*Akhil Sibal v. GNCTD*) observed in this context as under:

“16. It appears that the Petitioners are pursuing parallel proceedings and seeking different reliefs in respect of the same lands in question – one is to seek regularization by contending that the building on the land in question is part of an unauthorized colony, the other is to invoke Section 24 (2) of the 2013 Act, to seek lapsing of the land acquisition proceedings. In the considered view of the Court, the attempt at invoking Section 24 (2) of the 2013 Act is, in the circumstances, misconceived. Clearly, therefore, the present petitions are an abuse of the process of the Court where the facts speak for themselves.

17. Further, the manner in which the facts have been narrated, a relief under Section 24 (2) of the 2013 Act, is not even capable of being granted in either of the petitions. In similar circumstances, this Court had in its order dated 19<sup>th</sup> December, 2018 in W.P.(C) No.190/2016 *R. Bhagwan Batra v. Government of NCT of Delhi*, rejected the prayers of the Petitioners where they were seeking a similar relief in respect of the land an unauthorized colony i.e. Guru Ramdass Nagar. The Court there has pointed out that the Petitioner should be pursuing their case for regularization.

18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land. Some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premises on which such a regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation

of those structures. That very basis gets contradicted as some of them tried to seek a declaration about the lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

22. The above decision was reiterated by this Court in a decision dated 17<sup>th</sup> January, 2019 in W.P.(C) No.4528/2015 (***Mool Chand v. Union of India***) as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the *locus standi* to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19<sup>th</sup> December 2018 in WP(C) No.190/2016 (***Harbhagwan Batra v. Govt. of NCT of Delhi***) and order dated 8<sup>th</sup> January 2019 in WP(C) No.10201/2015 (***Gurmeet Singh Grewal v. Union of India***) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.”

23. Consequently, for the aforementioned reasons, the Court is unable to grant any of the reliefs prayed for in the present petition. It is dismissed as such. The pending applications are disposed of. The interim order dated 3<sup>rd</sup> July 2015, which has been continued from time to time, is hereby vacated.

24. It is clarified that dismissal of this petition will not come in the way of

the Petitioners pursuing their remedy of seeking regularization of the unauthorized colony in question, in accordance with law.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**JANUARY 31, 2019**

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