

\$~19

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

+ **W.P.(C) 10689/2016**

SH. JAI CHARAN & ORS

..... Petitioners

Through: Mr. Anuroop P.S., Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Rajneesh Sharma, Advocate for
LAC/L&B/R-1 to 4.
Mr. Ajay Verma, Senior Standing
Counsel DDA, Ms. Mrinalini Sen,
Standing Counsel DDA with
Mr. Tanmay Yadav and Mr. Sumit
Mishra, Advocates for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

%

18.02.2019

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

“It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to issue a writ / order / direction in the nature of mandamus calling for the records of the acquisition proceedings in respect of the land in question comprised in khasra Numbers Nos. 76/3 min, situated in the revenue estate of village Khichripur, Delhi acquired vide award No.28-B/70-71 pronounced on 07.11.1975 village Khichripur, Delhi and further to issue appropriate writ, order or direction declaring the acquisition proceedings having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.”

2. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued way back on 13th November 1959 followed by a declaration under Section 6 of the LAA on 6th January 1967. Pursuant thereto, an Award was passed on 7th November 1975.

3. According to the Petitioners, on 26th March 1990 their predecessor in interest filed a civil suit for permanent injunction against Respondents. After the said suit was decreed on 18th December 2012, an appeal being RCA 57/2014 was filed by the Delhi Development Authority (DDA). The said appeal was dismissed on 24th April 2014. Thereafter DDA filed a further second appeal in this Court being RSA No. 193/2014 which is pending consideration.

4. Counsel for the Petitioner urges that since in the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 ('the 2013 Act') came into force in 1st January 2014, the Petitioners are entitled to a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act. The case of the Petitioners is that possession of the lands in question still remains with and therefore they are entitled to the above relief.

5. There are several difficulties in the Petitioners being granted the above relief. The first is of course the delay and laches and the pendency of the other litigation concerning the very same land. In ***Indore Development Authority vs. 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.

6. Further it is seen from Para 4 of the judgment passed in the appeal RCA No. 57/2014 filed by the DDA against the decreeing of the suit filed by the

Petitioners that the land lost its agricultural character and had “fully built up colonies of which East Vinod Nagar colony came up in about 1963 and was situated as an unauthorized colony”. It is further noted that in a survey conducted in 1977, 600 colonies were identified for regularization by civic authorities and pursuant thereto “East Vinod Nagar colony came to be regularized for resolution No. 58 of DDA dated 1st February 1983 following in zone E/2”.

7. This Court has already in its order dated 10th January, 2019 in WP(C) No. 3630/2018 (**Akhil Sibal v. GNCTD**) and order dated 17th January, 2019 in W.P. (C) No. 4528/2015 (**Mool Chand v. GNCTD**) held that in respect of properties which form part of an unauthorized colony, no relief under Section 24 (2) of the 2013 Act can be granted.

8. For the aforementioned reason, there is no merit in this writ petition and it is dismissed as such.

9. The interim order dated 11th November 2016 which stood confirmed on 12th December 2017 hereby stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 18, 2019

nk