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

+ **W.P.(C) 11734/2016**

ANIL KUMAR ARORA & ORS. Petitioners

Through: Mr. Ashish Pratap Singh, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Rajesh Kumar, Senior Panel counsel
for UOI.

Mr. Arjun Pant for DDA

Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi, Mr. Mohapatra for
L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

29.03.2019

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1. The prayers in the petition read as under:

“It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to:

1. Issue a writ, order, direction, declaration to the effect that the acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of which Award No. 3/97-98/Suppl. dated 09.12.1997 was made, inter alia, in respect of the petitioners' land comprised in Khasra Nos. 9/2 (2-19), 10 (0- 11), 11 (2-03) and 12 (2-15), situated in the revenue estate of village Aali shall be deemed to have lapsed in view of the provision of Section 24: (2) of the of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,

2. Issue a writ, order or direction, in the nature of mandamus that if the appropriate government choose to acquire the land of the petitioners shall initiate the acquisition proceedings a fresh in accordance of the provisions of The Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and if not, then direct the respondent to restore the possession of the land in question i.e. land bearing khasra no. 9/2 (2-19), 10 (0-11), 11 (2-03) and 12 (2-15), situated in the revenue estate of village Aali, Delhi, back to the petitioners.

3. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

4. Award cost of the petition to the petitioners.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 6th April 1964, followed by declaration under Section 6 of the LAA on 7th December 1966. The impugned Award No. 03/97-98 was passed on 5th December 1997. 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, it is submitted that the possession of Khasra Nos. 9/2 (2-19), 10 (00-11), 11 (02-03) and 12 (2-15) was taken and handed over to the DDA on 22nd February 2004. It is also submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that the rightful claimants did not turn up to claim compensation.

4. It is further stated in the counter affidavit that the petition is liable to be dismissed as challenge to the acquisition proceedings has been made earlier at several instances by the Petitioners in CWP No. 1097/98 and CWP No. 708/98 which were dismissed on 11th March 2002. The Petitioners also preferred LPA No. 504/2001 and 505/2001 which were also dismissed by judgment dated 21st August 2003 and the Petitioners were directed to hand over the physical possession to the DDA on or before 20th February 2004 which is also admitted

by the Petitioners in Para 16 of the Writ Petition.

5. The rejoinder filed by the Petitioners to the counter affidavit of LAC merely reiterates the averments in the petition. It is stated that even though the possession is taken, the land is still lying vacant. 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 the compensation has not been paid gives rise to a disputed set of facts. 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

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“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 become 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 *Mool Chand v. Union of India 2019 (173) DRJ 595[DB]* 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.

I.S. MEHTA, J.

MARCH 29, 2019

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