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

+ **W.P.(C) 11162/2016**

SARDAR SINGH & ORS. Petitioners

Through: Mr. Vishal Maan, Advocate

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Ms. Shobhna Takiar with Ms. Shweta
Anand for DDA
Mr. Siddharth Panda for L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
02.08.2019

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1. The prayer in the petition reads as under:

“i. Issue of an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioners comprised in Khasra no. 36/5 (4-16), 36/6 (4-16), 58/11/2 (2-8), 58/20 (4-16) and 58/21 (4-16) total admeasuring 22 Bighas 12 Biswas, situated in revenue estate of village Palam, New Delhi, (hereinafter referred to as the land in question) to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.”

2. It is stated in the petition that the predecessors-in-interest of the Petitioners along with one Shri Nazir Shah were the co-owners in agricultural land bearing Khasra Nos. 34/15, 34/16, 34/17/1, 34/17/2, 34/6/3, 34/25, 34/24, 36/4, 36/5, 36/6, 36/7/3, 58/11/2, 58/20 and 58/21 in village Palam. It is stated that the predecessor-in-interest namely, one Shri Changdi Ram executed a Will dated 22nd December

1995 in favor of the Petitioners. In para 13 of the petition it is stated that the physical possession of the entire land has been taken but it is only land comprised in Khasra nos. 58//11/2 (2-8), 58/20 (4-16) and 58/21 (4-16) situated in revenue estate of Village Palam, New Delhi which stands utilized. It is stated that the petitioners are not claiming the return of the utilized land, and are only asking for compensation for the said acquisition. It is also stated in para 5 that under the Evacuee Property Act, 1950 the subject land was recognised as composite land and the competent officer inadvertently by mistake passed an order dated 27th March 1958 vesting the share of the Petitioner in the custodian which is the Central Government.

3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 27th January 1984, followed by declaration under Section 6 of the LAA on 26th September 1984. The impugned Award No. 156/86-87 was passed on 19th September 1986. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the physical possession of the subject lands was taken and handed over to the beneficiary department on 13th October 1986. It is stated that the compensation could not be paid due to dispute between the parties. It is stated that the land in question is recorded in the name of the custodian (Central Government).

5. 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 physical possession of the subject land was taken by the LAC and handed over to the DDA on 13th October 1986. It is submitted that a cheque No. 0018462 dated 21st January 1986 was released to the L&B department through revolving fund.

6. In the rejoinder filed by the Petitioners to the counter affidavit of the LAC, all averments of the LAC have been denied. It is stated that no dispute ever arose between the parties and compensation has not been paid.

7. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of facts. With the recorded owner of the land in question being the central government, the entitlement of the Petitioners to compensation is also in doubt. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for relief.

8. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* a three Judge Bench of the Supreme Court 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 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. 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 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 on certain other issues but 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 *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

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.

11. The interim order dated 12th February 2016 passed by this court which stood confirmed on 21st November 2017 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 02, 2019

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