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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11221/2016**

DEEPAK TALWAR & ANR. Petitioners
Through: Mr. Pankaj Vivek, Advocate
versus

LAND ACQUISITION COLLECTOR/A.D.M
(SOUTH DISTT.) & ORS. Respondents
Through: Mr. Arun Birbal with Mr. Ajay
Birbal, Advocates for DDA.
Mr. Sidharth Panda, Advocate
for LAC/L&B.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

% **ORDER**
16.07.2019

1. The prayers in the petition read as under:

“a) Issue a writ of certiorari or any other similar writ, order or direction for declaring the Award No.14/87-88 dated 26.5.1987 (Annexure P-1) as a nullity; and

b) Issue a writ, order or direction in the nature of certiorari or any other or similar writ or order thereby quashing the Award No. 14/87-88 dated 26.5.1987 w.r.t Lands bearing Khasra Nos. 600(4-16), 597(2-14), 598(4-10) & 599(4-16) situated in the revenue estate of Village Satbari, Tehsil Hauz Khas, Distt. South, New Delhi;”

2. The narration in the petition reveals that a notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 25th November 1980, followed by a declaration under Section 6 of the LAA on 27th May 1985. The impugned Award No. 14/87-88 was passed on 26th May 1987.

3. It is averred in the writ petition in para 2 (i) that a company named as ‘Himalayan Forest & Agro Products Pvt. Ltd.’ purchased lands as tabulated hereunder after obtaining a No Objection Certificate (‘NOC’) from the Revenue Authorities/LAC:

Sl. No.	Date of Sale Deed	Sl. No. of NOC & Date	Land Kh. No’s
1.	17.4.1985	6386 dated 29.3.1985	600(4-16) 599(2-8)
2.	17.4.1985	6370 dated 29.3.1985	597(2-14)
3.	17.4.1985	6369 dated 29.3.1985	598(4-10) 599(2-8)

The copies of the sale deeds have been annexed along with the petition.

4. It is further submitted that the said company is recorded as the owner of Khasra Nos. 600(4-16) and 5970(2-14) in the *Fard Jamabandi* and as cultivator in actual possession in the *Khasra Girdawri* only, whereas the land comprised in Khasra Nos. 598(4-10) and 599 (4-16) is shown in the name of the L&B Department in the *Khasra Girdawri* on the basis of the impugned Award. It is submitted that the impugned Award is also liable to be set aside as the declaration under Section 6 of LAA as noticed above, was passed 3 years after the issuance of the initial Section 4 of LAA notification. It is stated that despite the impugned Award being passed, neither compensation was paid or tendered nor was actual physical possession of the land in question taken over from the said company, even though possession of Khasra Nos. 598(4-10) and 599(4-16) is recorded in the name of the L&B Department.

5. It is further submitted in para 2 (vii) of the petition that there is no dispute qua the land comprised in Khasra Nos. 600(4-16) and 597(2-14) which is already recorded in ownership as that of the Petitioners whereas the land comprised in Khasra Nos. 598(4-10) and 599(4-16) is recorded as being in the possession of the L&B Department, however, ownership and actual physical possession continues to remain with the aforementioned Company. It is further submitted that the entire land is actually a single unit and is used as a farmhouse, with actual possession being with the Petitioners as they had purchased the said land by way of a notarized Agreement to Sell, registered GPA, Receipt, Possession Letter etc. dated 14th July 2011. Copies of the sale documents have been annexed along with the petition. A copy of the electricity bill has also been annexed along with the petition to show that the land is in possession of the Petitioners and is being used as farmhouse. Furthermore, it is submitted that the claim of the Petitioners that the land comprised in Khasra Nos. 598(4-10) and 599(4-16) is not in possession of the Respondents is evident from the fact that the said land has not been utilized till date. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

6. A perusal of the abovementioned documents relied upon by the Petitioners to claim ownership of the subject land reveals that they are unregistered and do not confer any valid right, title or interest in respect of the lands in question in favour of the Petitioners. In this case, the Notification under Section 4 of LAA was passed on 25th November 1980 and the impugned Award was passed on 26th May

1987. The Petitioners having full knowledge about the status of the land in question and without taking permission from the competent authority as required under Delhi Land (Restriction of Transfer) Act, 1972 have entered into the above transactions in respect of the lands in question. The validity of the above documents are, therefore, extremely doubtful. In the circumstances, the Court is not satisfied that the Petitioners have been able to even *prima facie* demonstrate their locus standi to file this petition and claim any relief under Section 24 (2) of the 2013 Act.

7. In the counter affidavit filed on behalf of the Additional District Magistrate (South)/ A.D.M(S), it is submitted that the impugned Award dated 26th May 1987 for the purpose of 'Planned Development of Delhi' was passed with respect to the land in question i.e Khasra Nos. 600(4-16), 597(2-14), 598(4-10) and 599(4-16) after notices under Sections 9 and 10 LAA were issued to the interested persons and such claims filed by such interested persons were considered. It is submitted that the impugned acquisition proceedings were challenged by various interested persons by filing writ petitions wherein interim protection was granted by this Court. This interim protection continued till the disposal of the writ petitions when the impugned acquisition proceedings were upheld. It is stated that in one batch of petitions, there was a difference of opinion, wherein the cases were decided in favour of the landowners and the acquisition proceedings were quashed. Both the landowners and the Government went in appeal before the Supreme Court, wherein the appeals filed by the landowners were dismissed in ***Om Prakash v. Govt. of NCT of Delhi & Ors. 2010 (4) SCC 17*** along with other appeals in 2010.

8. It is further stated that in the present case, possession of the land bearing Khasra Nos. 599(4-16) and 598(4-10) was taken over and handed over to the beneficiary department on 14th July 1987, however possession of Khasra no.600(4-16) could not be taken “due to built up” and possession of land bearing Khasra no. 597 could not be taken due to stay granted by this Court in W.P(C) 2094 of 1985. As per records, the compensation amount was deposited “in the RD in the name of Mahender Singh, Banwari & Mahender Shai.” It is submitted that possession of large tracts of the acquired land has been taken and quashing the impugned notifications would frustrate the public purpose as the lands in question vest with the Government.

9. A short counter affidavit has also been filed on behalf of the DDA. It is submitted therein that the documents relied upon by the Petitioners to prove their ownership of the lands in question do not confer any valid right, title or interest in their favour, and indeed, the Petitioners have no *locus* to file the present petition being subsequent purchasers. It is stated that as per records, subsequent to the passing of the impugned Award, actual physical possession of the lands in Khasra Nos. 598(4-10) and 599(4-16) was taken on 14th July 1987 and handed over to the DDA. A copy of the possession proceedings has been annexed along with the affidavit. As regards compensation, it is submitted that the status of disbursement to individual recorded owners can be ascertained from the records of the LAC, however, compensation of Rs.100 crores in respect of acquisition of 13 villages in South Delhi, including the Village where the land in question in the present petition is situated, was paid by the Central Government to

the L&B Department, Government of NCT of Delhi.

10. No rejoinder has been filed by the Petitioners to the counter affidavits filed on behalf of the Respondents. In any event, the assertions by the Petitioners that they continue to remain in physical possession of the land in question or that compensation has not been tendered give rise to disputed questions of fact which cannot possibly be examined in the present petition. As already noted, the *locus standi* of the Petitioners to claim relief under Section 24 (2) of the 2013 Act is extremely doubtful.

11. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief. 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.”

12. The above decision has been reaffirmed by the judgment of a three Judges 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 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.”

13. 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 (supra)* 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*.

14. 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. The interim order dated 28th November 2016 which stood confirmed on 7th November 2017 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 16, 2019
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