

\$~41

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

+ **W.P.(C) 11220/2016**

SITA RAM BHANDAR

..... Petitioner

Through: Mr Sanjay Kapoor with Mr. Gaurav
Juneja & Ms. Anushka Sharda,
Advocates.

versus

THE LT GOVERNOR AND ORS

..... Respondents

Through: Mr. Arun Birbal & Mr. Ajay Birbal,
Advocates for Respondent/DDA.
Mr. Siddharth Panda, Advocate for
LAC/L & B.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **30.01.2019**

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

“(a) Issue an appropriate writ, order or direction holding that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the said Land bearing Khewat No.57, Khasra No.157 measuring 8 Bighas and 11 Biswas, i.e. 8620 sq. yds (about 1.8 acres) situated in the revenue estate of Village Lado Sarai, Tehsil Mehrauli, Delhi, Union Territory of Delhi, belonging to the Petitioner, as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(b) Issue an appropriate writ, order or direction that in view of the lapse of the land acquisition proceedings of the said Land bearing Khewat No.57, Khasra No.157 measuring 8 Bighas and 11 Biswas, i.e. 8620 sq. yds (about 1.8 acres) situated in the revenue estate of Village Lado Sarai, Tehsil Mehrauli, Delhi, Union Territory of Delhi,

as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Respondents are to forthwith return possession of the said Land to the Petitioner.

(c) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. From the narration of the petition, it is seen that an earlier challenge by the Petitioner to the land acquisition proceedings failed with the dismissal of his CA Nos. 4849-50/2000 by the Supreme Court on 15th September, 2009.

3. Counsel for the Petitioner points out to the reply received by the Petitioner on 19th June, 2009 stating that as per the statement ‘A’ & Nakshamutizium in relation to Award No. 36/80-81 the compensation amount determined by the award was not paid to the Petitioner.

4. Counsel for the Petitioner states that the delay, if any, in seeking compensation, which is the only relief he is seeking at the present moment, can be explained by him if an opportunity is given to withdraw this petition with liberty to file fresh petition for the above relief of compensation explaining the delay in seeking such relief.

5. As far as the relief under Section 24(2) is concerned, the Court is of the view that the relief is barred because of the judgment of the Supreme Court in *Indore Development Authority vs. Shailendra* (2018) 3 SCC 412 and in particular para 128 which reads 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.

6. The petition is dismissed as withdrawn with liberty to file afresh petition limited to the question of compensation for the land in question by explaining the delay in approaching the Court for relief.

S.MURALIDHAR, J

SANJEEV NARULA, J

JANUARY 30, 2019

mw