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

+ **W.P.(C) 10002/2018 & CM Appl.No. 38951/2018**

MAHENDER KUMAR SHARMA AND ORS. Petitioners

Through Ms. Prabha Sharma, proxy for Mr.
R.B.Sisodia, Advocate

versus

GOVT. OF N.C.T. OF DELHI AND ORS. Respondents

Through Ms. Ruchika Rathi, Ms. Sanya Dua &
Ms.Subhalaxmi Sen, Advocates for
Respondent/LAC/L & B
Ms. Beenashaw N.Soni with Mr. Aakash Yadav,
Advocates for Respondent/DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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16.01.2019

1. The prayer in the present petition reads as under:

“a] Issue a writ of Mandamus or any other Direction[s] or order[s] in nature thereof thereby lapse the acquisition proceedings of land falling in Khasra 2580/1352 situated in the revenue estate of Village Mehrauli, District-South, New Delhi, 01 Bigha 06 Biswa Which have been acquired vide Award No. 1721/1964 situated in the revenue estate of Village- Mehrauli, Tehsil-Mehrauli, New Delhi.

b] Issue any other or further order[s] as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.”

2. From the narration of the petition, it is seen that the notification under

Section 4 of the LAA was issued way back on 13th November, 1959 followed by the declaration under Section 6 of the LAA. The Award was passed on 7th February, 1964 i.e. more than five decades ago.

3. There is no attempt made by the Petitioner anywhere to explain the inordinate delay of 51 years in the Petitioner's coming to the Court for seeking relief. The only explanation given is that actual physical possession of the land has never been taken by the Respondents and continues to be with the Petitioners. It is accordingly also submitted in Court that till the passing of the 2013 Act, the Petitioner's did not consider it necessary to come forward to question the land acquisition proceedings.

4. In *Mahavir vs. Union of India (2018) 3 SCC 588* the Supreme Court has emphasized the need for relief under Section 24(2) of the 2013 Act have been sought in good time. It was 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.”

5. This has been affirmed by the subsequent judgment of the three Judge Bench 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 come 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.”

6. Consequently, the petition is dismissed on the ground of laches. The application is also dismissed.

7. The interim order dated 24th September 2018 stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 16, 2019

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