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

+ **W.P.(C) 6556/2017**

KISHORI LAL & ORS

..... Petitioners

Through: Mr. Chatanya Siddhartha, Advocate.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ANR

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.

+ **W.P.(C) 8810/2017**

BALJIT SINGH

..... Petitioner

Through: Mr. Chatanya Siddhartha, Advocate.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI AND  
ANR.

..... Respondents

Through: Mr. Rajneesh Sharma, Advocate for  
LAC/L&B Dept.  
Ms. Shobhana Takiar, Advocate for DDA.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

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**25.01.2019**

**SANJEEV NARULA, J.:**

1. These two petitions arising out of similar set of facts have been heard separately and are being disposed of by a common judgment.

2. The petitioners are seeking a declaration that the acquisition proceedings in respect of land situated in Revenue Estate of village MohamadpurMajri, New Delhi (hereinafter "the land in question") stand lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter "the 2013 Act"). The land in all these petitions pertains to Village MohamadpurMajri. The area of the land and its respective khasra number corresponding for each Petitioner has been consolidated as under:

| S.No. | Writ Petition (Civil) No. | Khasra No.                                                                                                                                         | Area                |
|-------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1.    | 6556/2017                 | 36// 2(4-12), 36// 12 min.(3-0), 23//24(4-12), 40//1 (4-12), 39//5(4-16), 39//4 min.(2-16), 39//7(4-16), 39//8 (4-16), 42//13 (4-16), 42//18(4-18) | 43 bighas 14 biswas |
| 2.    | 8810/2017                 | 42//22(3-18), 47//2 (0-06) and 43//9(4-16)                                                                                                         | 9 bighas 0biswas    |

3. It is not in dispute that a notification dated 21<sup>st</sup> March 2003 was issued for public purpose namely Rohini Residential Scheme under section 4 of the Land Acquisition Act, 1984 (hereinafter "LAA") followed by a declaration dated 19<sup>th</sup> March 2004 under Section 6 of the LAA. An Award No. 20/2005-2006/DC(NW) was passed on 18<sup>th</sup> November 2005.

4. The Petitioners submit that though compensation has been received, possession of the subject land has not been taken by the Respondents. Thus, the

Petitioners claim to be entitled for a declaration under Section 24(2) of the 2013 Act, to the effect that the acquisition proceedings in respect of the subject land stand lapsed.

5. On the contrary, learned counsel for the LAC submitted that possession of the subject land has been taken on 2<sup>nd</sup> August 2006 and payment in respect thereto has been paid to the Petitioners. Relevant payment records in writ petition No. 8810/2017 have been reproduced as under:

| Item No. | Recorded Owner                                                                              | Khasra No. With Area                                                                                  | Amount Paid with Cheque No. and Date.                                                         |
|----------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 60 to 62 | Baljit Singh, Jagdish Singh and Balwant Singh S/o Khem Chand (1/3 <sup>rd</sup> share each) | 35//10min(0-7),<br>11//1min(1-19),<br>11//2min(0-10),<br>42//22(3-18),<br>47//2(0-06)<br>Total (7-00) | Rs.<br>12,38,799/-<br>each paid to vide Cheque No. 733715 to Cheque No. 733717 dt 24/02/2009  |
|          |                                                                                             | 42//20(4-16).<br>21(4-16)<br>Total (9-12)                                                             | Rs.<br>16,98,924/-<br>each paid to vide Cheque no. 341708 to Cheque No. 341710 dt. 03/12/2009 |
|          |                                                                                             | 43//4min(2-06)<br>Total (7-02)                                                                        | Rs.<br>12,56,496/-<br>each paid to vide Cheque no. 342192 to Cheque No 342194 dt. 31/03/2010  |

6. Relevant payment records in writ petition No. 6556/2017 have been reproduced as under:

| Item No. | Recorded owners                                   | Khasra Nos.                                                                                                            | Date of possession                                                                                                        | Remaining Land                 | Compensation                                                                 |
|----------|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------------|------------------------------------------------------------------------------|
| 87       | Shambhu Dayal Sharma S/o M.L.Sharma(full share)   | 23//24 (4-12)                                                                                                          | 2.8.2006                                                                                                                  | NIL                            | Compensation paid of Rs.24,42,204/- vide cheque No.365129 dated 20.08.2010   |
| 51 to 55 | Shambhu Dayal Sharma S/o. M.L.Sharma (full share) | 36//2 (4-12)<br>36//12Min (3-00)                                                                                       | 2.8.2006<br>2.8.2006                                                                                                      | NIL                            | Compensation paid of Rs.40,34,946/- vide cheque No.365128 dated 20.08.2010   |
| 131      | Kishore Lal S/o Mahadev (full share)              | 36//23 (4-16),<br>39//4min (2-16)<br>39//7 (4-16)<br>39//8 (4-16),<br>42//13 (4-16),<br>42//18 (4-18)<br>Total (26-18) | 39//4 min (2-16),<br>39//7(4-16), 39//8 (4-16),<br>42//13 (4-08),<br>42//18)<br>Total 21 Bighas and 14 Biswas<br>2.8.2006 | 36//23 (4-16) 42//13 min (0-8) | Compensation paid of Rs.1,14,14,651/- vide cheque No.341525 dated 04.09.2009 |
| 327      | Sunil Sahrma S/o ML Sharma (full share)           | 40/1 (4-12)                                                                                                            | 2.8.2006                                                                                                                  | NIL                            | Compensation paid of Rs.24,42,204/- vide cheque No.341375 dated 2.7.2009     |

7. No rejoinder has been filed by the Petitioners to contradict the above assertions of the LAC. Thus the averment of the Petitioners about continuing to remain in possession of the land becomes a disputed question of fact.

8. This petition has been filed invoking the extraordinary power of the Court under Article 226 of the Constitution of India. It is a settled position of law

that, this Court, in the exercise of Writ Jurisdiction, does not delve into disputed question of rights and title of the parties. Thus matters in which disputed questions of fact are involved, cannot be decided in a summary proceeding based solely on the pleadings of the parties. Such disputed matters must be decided by the Civil Courts after recording of due evidence in the matter.

9. There is no explanation whatsoever offered in the petition for the inordinate delay in coming forward to seek relief under Section 24 (2) of the 2013 Act. The Award for the subject land was passed in 2005. Since then no steps have been taken by the Petitioners, except for filing the present petition after more than a decade. The petition is obviously barred by laches.

10. After the passing of the 2013 Act, the Petitioners have approached this court claiming that they are in possession of the land in question. There is no document annexed in the petition or any averment made by the Petitioners that would even remotely indicate that Petitioners continued in possession. Be that as it may.

11. In *Mahavir v. Union of India (2018) 3 SCC 588*, the Supreme Court held 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

avermment 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 aforesaid Judgment has been considered by the Supreme Court in the decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“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 W.P.(C) Nos. 946/2017 & 948/2017 Page 5 of 7 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 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 W.P.(C) Nos. 946/2017 & 948/2017 Page 6 of 7 would be received or entertained by the courts.”

13. This Court has on 10<sup>th</sup> December 2018 in W.P.(C) 2734/2015 (*Devender Singh v. The Hon'ble Lt. Governor*), 17<sup>th</sup> December 2018 in W.P.(C) 1380/2016 (*Bhule Ram v. Union of India*), 21<sup>st</sup> December 2018 in W.P.(C) 5647/2016 (*Ram Deviv. Govt of NCT of Delhi*), and on 19<sup>th</sup> December 2018 in W.P.(C) 6287/2014 (*Kartar Singh v. Union of India*), rejected petitions seeking similar reliefs on the ground of laches.

14. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the present petition is dismissed both on the ground of laches as well as merits.

**SANJEEV NARULA, J.**

**S.MURALIDHAR, J.**

**JANURY 25, 2019**

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