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

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W.P.(C) 6737/2017

SANJAY & ANR.

.... Petitioners

Through: Mr. Mukesh Kumar Verma,
Advocate

versus

GOVT OF NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Yeeshu Jain along with
Ms. Jyoti Tyagi, Advocates
for LAC/L&B
Ms. Rukmini Bobde along
with Mr. Nivesh Kumar,
Advocates for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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23.07.2019

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

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioners, which is half of the land comprised in Khasra No.370/115-16, 295/122, 124, 154, 1.09, 345/446 and 149, which measured 22 Bighas and 7 Biswas, they had also a one sixth share each in Khasra no. 148 measuring 6 Biswas and in addition , 1/48th share each in Khasra no.45 measuring 12 Biswas situated in revenue estate of Village Adhchini, New Delhi (hereinafter referred to as the land in question) which was devolved in favour of petitioners vide Will of 1973 executed by Late Smt. Khazani, including the notification bearing no. F-45(III)/59-L&B dated 13.11.1959 issued under section 4 of the Land Acquisition Act, 1894 and all subsequent proceedings 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. The background facts are that the land in question i.e. 22 *Bighas* and 7 *Biswas* in Khasra No.370/115-16, 295/122, 124, 154, 1.09, 345/446 and 149, 6 *Biswas* in Khasra no. 148 and 12 *Biswas* in Khasra No. 45, situated in revenue estate of Village Adhchini, New Delhi (hereafter, ‘subject land’) was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 13th November, 1959 for the public purpose of the “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 14th May, 1962. The Land Acquisition Collector (‘LAC’) passed Award No. 1404/1962 on 29th October, 1962.

3. As far as the Petitioners are concerned, it is stated that the Petitioners are the recorded owners of the subject land admeasuring 22 *Bighas* 7 *Biswas*. In respect of the remainder of the subject land, it is stated that the said land devolved to the Petitioners by way of Will executed in their favour dated 8th May, 1973. A translated copy of the Will has been annexed to the petition.

4. It is averred in the writ petition that the subject land remains vacant and that the possession of the subject land remains with the Petitioners. It is also averred that compensation has not been paid to them. Thereafter, the petition refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) and the Petitioners’ entitlement to a declaration of deemed lapsing on the ground that the possession remains with the Petitioners and compensation has not been paid.

5. A counter affidavit has been filed on behalf of the DDA. It is averred therein that physical possession of land bearing Khasra No. 370/115-116 and 345/146 was handed over to the DDA on 23rd November, 1962. As regards compensation, it averred that “prior to the year 1980, the awarded compensation was disbursed to the L&B department/LAC through revolving fund”. It is averred that land stands fully vested with the DDA and that position cannot be now disturbed by the Petitioners.

6. No rejoinder has been filed by the Petitioners to the counter affidavit of the DDA. Be that as it may, the assertion of the Petitioners that they continue to be in possession of the subject land and are entitled to compensation which has not been tendered gives rise to disputed questions of fact which cannot be examined in the present petition. The fact further remains that the petition does not advance any convincing explanation for the inordinate delay in approaching the Court for relief.

7. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* a three Judge Bench of the Supreme Court of India observed as under:

“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.”

8. 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 only 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 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 its decision in *Mool Chand v. Union of India (2019) 173 DRJ 595 (DB)*.

9. For the aforementioned reasons, the writ petition is dismissed.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019
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