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

+ **W.P.(C) 10498/2018 & CM Appl.No. 40944/2018**

RAMZANI

..... Petitioner

Through: Mr. Rana Ranjit Singh, Mr. Vivek
Kumar Singh & Mr. Awanish Gupta,
Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. S.D.Windesh, Advocate for
Respondent No.1
Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha & Mr. M.S.Akhtar,
Advocates for Respondents No.2 & 3

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

% **15.04.2019**

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

A. Issue a writ of mandamus or any other writ directing the respondents to implement the Judicial order dt. 31.01.1970 passed by the Assistant Custodian Delhi in ACJ/ Misc./632 & ACJ/ Misc./640 under the Administration of Evacuee Property Act 1950 (31 of 1985) with Rules and

B. Issue a writ of Mandamus/ or any other appropriate Writ directing the respondents to either allot Rural Land of 14 Bighas and 18 biswa at the present rate of Toot Sarai Delhi in the villages of Delhi wherever the land is available as per the offer No. 1019A dt. 13-11-1962 or Pay the award/compensation to the Petitioner as per The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013,

C. further seeking a writ of Mandamus/ or any other appropriate Writ

directing the respondents to determine and Pay the award/compensation to the Petitioner / Beneficiaries as per first proviso after Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and

D. Impose exemplary cost upon respondents for passing such impugned orders for harassing the Petitioner,

E. Pass any other & further order or direction as may be deemed fit, proper, necessary and expedient in the interest of justice.”

2. There is a long narration in the writ petition beginning with the notification of lands in village Shekh Sarai and Toot Sarai under Sections 4 & 6 of the Land Acquisition Act, 1894 (‘LAA’) on 21st December, 1911 for acquisition for public purpose of ‘New Capital of India’. It is stated that by an order No. 1019A dated 13th November, 1962 the Petitioner was declared as a ‘non-evacuee’ and the share of the land of the Petitioner was also declared ‘non-evacuee’. The Petitioner accordingly claims that he is either entitled for possession of rural land of 14 bighas and 18 biswas in the villages of Alipur, Hamidpur etc. or wherever land is available. It is stated that in the alternative the land is not available, he has to be paid compensation in terms of the proviso to the 2013 Act particularly since the Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (RDPLA) stands repealed in May, 2015. It is sought to be explained that the Petitioner is laying this claim because of the agriculture land of the Petitioner has acquired by an notification dated 16th September, 1948 in village Toot Sarai, and possession was taken at that time no compensation had been determined or deposited with the Court.

3. Another ground on which compensation is claimed is that in terms of Section 105 (3) of the 2013 Act the land acquired under the RDPLA, 1948 mentioned in the 4th Schedule thereto would be entitled to compensation under the 2013 Act. The writ petition refers to the notification of the land in question for acquisition under the RDPLA Act in 1948; the announcement of compensation vide offer No. 1019A dated 31st May, 1960 for village Toot Sarai in the said acquisition proceedings and the subsequent offer No. 1019A dated 13th November, 1962.

4. The Petitioner is stated to have filed two petitions before the Assistant Custodian (Judicial) Delhi *inter-alia* seeking possession of the agricultural land and house properties belonging to his ancestors. By an order dated 31st January, 1970 the Assistant Custodian (Judicial) is supposed to have held that the Petitioner was a sole legal heir of his uncle and is supposed to have released the following in favour of the Petitioner:

“AGRICULTURE LAND

- (i) half share (1/2) share in Khasra No. 21, 57, 58, and 65 Khewat No. 33/62 measuring 13 bighas 10 Biswas and
- (ii) 3/4th share in Khasra No. 15 min, 53, 54, 55, 60, 66, Khewat Nos. 32/59-61 measuring 10 bighas 19 biswas in Village Toot Sarai in favour of the petitioner. It was further held that the land is already stands acquired for "Sheikh Sarai Scheme". The Petitioner was allowed to get compensation of Noora's share.

HOUSES

- (iii) That the compensation for the 4 houses were also awarded which was determined of value Rs. 17,000/-. A copy of order dt. 31.01.1970 passed by the Assistant Custodian (Judicial) under the Administration of Evacuee Property Act 1950 is annexed here with as Annexure P- 5.

5. It is further stated that the Department of Rehabilitation by an order 18th May, 1974 assessed the compensation payable for the house is at Rs. 17,000/-. However, the land acquisition branch by letter dated 8th June, 1976 informed the Petitioner that he is not entitled to compensation for the share of land of Shri Noora since no offer was made in respect thereof. The Petitioner is stated to have given a representation on 20th July, 1976 to the Custodian for the entitled property requesting for release of compensation or in the alternative, land. By a letter dated 15th November, 1976 the Department of Rehabilitation (Settlement Wing) (Respondent No.1) informed the Petitioner that Khasra Nos. 21, 57, 58, 65 etc. in village Toot Sarai already stood acquired under the RDPLA for construction of a Government colony by Award No. 1019A and therefore alternate land could not be allotted.

6. Interestingly, it is this very representation dated 20th July, 1976 that the Petitioner has been seeking to follow up in four decades thereafter. However, thereafter there is a break in the narration. According to the Petitioner the Government of India issued a memorandum on 3rd February, 1978 deciding to restore possession of 2 bighas and 17 biswas in village Toot Sarai to the Petitioner. However, he could not get possession thereof and was asked on 6th September, 1979 to approach the town planner of Delhi. The Petitioner is supposed to have made an application on 3rd January, 1981 to the Settlement Commissioner. He received a letter on 8th January, 1982 from Respondent No.1 informing him that allotment of alternative land of 12 bighas is not acceded to. He again received a letter on 27th January, 1983 refusing to allot him an alternative land. His appeal was

rejected by the Settlement Commissioner on 19th May, 1983. His further revision was rejected on 11th May, 1984. His petition under Section 33 of Displaced Persons (C & R) Act, 1954 against the aforementioned order also stood rejected on 17th January, 1985.

7. The Petitioner stated to have made representations thereafter. On 22nd February, 1989 the Government of India is supposed to have issued a letter for payment of Rs. 23,995/- to him as compensation in respect of the land acquired. Petitioner states that he was unable to take compensation “because he was entitled to get either award from the LAC for the land acquired or to get land in lieu of the land taken over by the Custodian as evacuee property and subsequently declared and non evacuee land vide order dt. 30-1-1970. That in number of other cases similarly situated persons were given alternative urban land in lieu of acquired land. In this regard the Respondent No.1 prepared a note in its department on 28.02.89.”

8. In other words, despite the offer of the above compensation the Petitioner was not interested in receiving it. This led to the Government of India (Respondent No.1) cancelling the cheque dated 22nd February, 1989 for Rs. 23,995/-.

9. The narration then shifts to 14th April, 1990 when Respondent No.1 is supposed to have written to the Land and Building Department, Delhi Administration requesting to allot alternative land to the Petitioner as he had been declared non-evacuee by a judgment dated 31st January, 1970 passed by the Assistant Commandant (Judicial) Delhi. It is not clear how the

Petitioner then managed to sell part of a land in Khasra No. 1127 in Village Satberi without possession even being given to him, to some buyers in Delhi. Those buyers filed Suit No. 1771/1991 against the Petitioner. Ultimately those suits were dismissed in default.

10. The narration then straightway shifts to an office note dated 3rd June, 2005 of the evacuee property sell noticing that the Petitioner had been making representations since 1971. Petition is stated to have filed almost 10 years thereafter WP(C) No. 10145/2015 (*Ramzani v. State*) in this Court which is stated to be still pending.

11. The Petitioner states that he continued making representations regarding the allotment of the alternative plot for which the writ petition was filed. As far as the present writ petition is concerned, it is for a direction to Respondents to implement the order dated 31st January, 1970 or to award compensation as per the 2013 Act or hand over a rural land of 12 bighas and 1 biswas.

12. From a reading of the entire petition, it is claimed that the reliefs claimed by the Petitioner hopelessly time barred. It appears that for a long period of time the Petitioner absolutely did nothing but just keeping making requisite representations. It also appears that at one stage when he has offered compensation the Petitioner did not accept it. He is claiming reliefs under Section 2013 Act are clearly barred by laches. The following observations of the Supreme Court by the subsequent judgment of the three Judge Bench in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 would W.P.(C) 10498/2018

squarely apply in this case:

“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.”

13. Consequently, the Court is not inclined to grant any relief as prayed for and the petition is dismissed on the ground of laches. The application is also disposed of.

S.MURALIDHAR, J

I.S.MEHTA, J

APRIL 15, 2019/mw

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