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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 109/2017

KULDEEP KUMAR PABREJA & ORS.

.... Petitioners

Through: Mr. N. S. Vasisht,
Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Arun Birbal
and Mr. Sanjay Singh,
Advocates for Respondent
No. 3.

Mr. Sanjay Kumar Pathak,
Mrs. K. K. Kiran Pathak,
Mr. Sunil Kumar Jha, and
Mr. M. S. Akhtar for
Respondents No. 4 & 5.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

13.08.2019

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

“issue a writ of certiorari and/or any other writ, order or direction of a similar nature declaring the entire acquisition with respect to said land of the Petitioners having lapsed and further quashing No. F15 (63) 62 LSG/ L&H dated 04.08.1967 issued

under Section 4, notification No. F15 (63) 62 LSG/ L&H dated 20.11.1967 issued under Section 6, and Award No. 12/83-84 dated 17.06.1983 with respect to land of the Petitioner comprised in Khasra No. 471 (19-08) locality Civil Station, NCT of Delhi and further quash the Notification.”

2. The background facts are that the land in question i.e. Khasra No. 471 (‘subject land’) admeasuring 19 *Bighas* 8 *Biswas* situated in locality Civil Station, NCT of Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 4th August, 1967 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 20th November, 1967. Thereafter, the Land Acquisition Collector (‘LAC’) made an Award No. 12/83-84 (‘the Award’) dated 17th June, 1983 under Section 11 of the LAA. A Supplementary Award was also made on 10th April, 1985.

3. While the writ petition has been filed by 11 Petitioners, the pleadings only refer to the averments of Petitioner No.1. As far as said Petitioner is concerned, it is claimed that he became owner of part of the subject land upon the expiry of his father and predecessor-in-interest. It is stated by the Petitioner that possession of the subject land was taken in 2002. However, it is submitted that compensation was neither paid to the Petitioner nor to his predecessor-in-interest, nor deposited with the Court in accordance with Section 31 of the LAA.

4. Counter-affidavits have been filed on behalf of the DDA, and the L&B and LAC. In the counter-affidavit of the DDA, it is stated that the writ petition is liable to be dismissed on the ground of delay and laches. It is averred that physical possession of the subject land was taken over by the Land and Building Department ('L&B') and handed over to the PWD on 1st May, 2000. Therefore, it is submitted that the writ petition was liable to be dismissed on the ground that PWD had not been added to it as a party. It is also stated by the DDA that compensation has been paid to a large number of interested persons. Further, the DDA points out that the Award records as under:

“Since the Revenue Record and claimants who made claims or the claimants who are in possession of the land have not come forward despite service to establish their rights so this amount of compensation would be kept disputed and referred to ADJ for adjudication.”

5. In the counter-affidavit of the L&B and LAC, it is submitted that the writ petition is liable to be dismissed on the ground of delay and laches. It is also stated that no documents or copies of revenue records have been placed on record by the Petitioners to prove their title and ownership of the subject land. It is stated that possession of the subject land was taken on 1st May, 2000 and handed over to the PWD. As regards compensation, it is submitted that the *Naksha Muntzamin* and Statement 'A' is not readily traceable, because of which it could not be ascertained whether compensation had been paid or not.

6. The above averments in respect of title and ownership of the subject land and entitlement of the Petitioners to compensation raise disputed questions of fact which cannot be examined by this Court in the present proceedings. Be that as it may, the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for relief. 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.”

7. 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)*.

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

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 13, 2019

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