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

+ **W.P.(C) 7146/2017**

BHAGAT SINGH

..... Petitioner

Through: Mr NS Chechi, Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B
Mr Rahul Bakshi, Advocate for DDA

W.P.(C) 7187/2017

JAI KARAN CHOUDHARY & ORS.

.... Petitioners

Through: Mr NS Chechi, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Jitendra Kr. Tripathi with Mr Vipul
Agarwal and Mr Anshuman Nayak,
Advocates for UOI
Mr Sanjay Kumar Pathak, Mr Sunil Jha and
Mr MS Akhtar, Advocates for LAC/L&B
Mr Suhael Buttan, Advocate for R-4/DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

04.04.2019

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1. These petitions arise out of a common set of facts and seek almost identical reliefs. They are therefore being disposed of by a common order. Nevertheless,

they were heard separately.

2. For the sake of convenience, the facts of W.P.(C) 7146/2017 are set out in detail.

The prayers in the petition read as under:

“(a) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to the land comprised in Khasra Nos. Nos. 251 (4-16) total 4 Bigha 16 Biswa qua 1/12th share only situated in the revenue estate of Village Kotla Mahigram, New Delhi, having lapsed and further quashing the impugned Notification No. F.-4(9)/64/L &H dated 06.04.1964 issued under Section 4 of the Land Acquisition Act, 1894, Notification No. F.-4(9)/64/L &H dated 07.12.1966 issued under Section 6 of the Land Acquisition Act, 1894 and the relevant extract of the Award No. 205/86-87 with respect to the land comprised in Khasra Nos. Nos. 251 (4-16) total 4 Bigha 16 Biswa qua 1/12th share only situated in the revenue estate of Village Kotla Mahigram, New Delhi.; and

(b) pass such an such any other order or directions, as deemed fit and proper in the facts and circumstances of the case in favour of the Petitioner and against the Khasra Nos. Nos. 251 (4-16) total 4 Bigha 16 Biswa qua 1/12th share only situated in the revenue estate of Village Kotla Mahigram, New Delhi Respondents.”

3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) in respect of the land in question was issued on 6th April 1964, followed by declaration under Section 6 of the LAA on 7th December 1966. The impugned Award No. 205/86-87 was passed on 19th September 1986.

4. In the petition, it is admitted by the Petitioner that the possession of the subject land has been taken over by the LAC. In the ‘List of Dates’, however, the Petitioner states that a possession report was prepared on 19th January 2006, but actual possession was never taken. The Petitioner claims to be the only surviving legal heir to Shri Jagbir Singh, who was the recorded owner of the land. However,

the Petitioner claims that no compensation has been paid to him.

5. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No.251 (4-16) was taken and handed over to the DDA in 2006. On the aspect of compensation, it is submitted that the share claimed by the Petitioner i.e. 1/12th share was sent to the RD on 6th April 1997.

6. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC.

7. As far the companion petition W.P. (C) 7187 of 217 is concerned, it is by 18 Petitioners who claim that their predecessors-in-interest were the recorded owners of the lands in question which are located in the same village Kotla Mahigram. Only the Khasra Nos. are different from the ones mentioned in W.P. (C) 7146 of 2017. Otherwise, the dates of the LA notifications and the Award are the same. The stand of the Petitioners and the corresponding stand of the LAC and DA are also the same. These Petitioners too have not filed any rejoinder.

8. The assertions by the Petitioners that they continue to remain in possession of the lands in question or that compensation was not tendered give rise to disputed questions of fact which cannot be examined in these petitions. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

9. On the aspect of laches, in *Mahavir v. Union of India (2018) 3 SCC 588* the Supreme Court has 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.”

10. The above observations have been reiterated in the 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 become 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.”

11. 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 essentially as regards the extent to which it differs from the earlier view of the Supreme Court in ***Pune Municipal Corporation v. Harakchand Misrimal Solanki (supra)*** regarding the tendering of compensation, and on certain other issues but 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 *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

12. For the aforementioned reasons, these writ petitions are dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 04, 2019

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