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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11668/2018 & CM APPL 45049/2018

P.S. VERMA & ORS.

..... Petitioners

Through

Mr. Bahar Barqui, with Kuldeep
Sehrawat, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Mr. Rajnesh Kr. Sharma,
Advocate for Respondent/LAC/L & B
Ms. Sukhbeer Kaur Bajwa for
Respondent/DDA

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

04.07.2019

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

“(a) Pass appropriate Writs, Orders and/or directions especially in the nature of certiorari quashing the Award No. 20/92-93 in respect of Plot No. D-2, D-14-A and D-15-A in Khasra No. 505, Village: Madanpur Khadar, Tehsil: Mehrauli, New Delhi; relating to the property of the Petitioners;

(b) Pass appropriate Writs, Orders and/or directions declaring that the Petitioners are entitled to the benefits contained in Section 24(2) of the New Act as the acquisition, if any, already got lapsed and the possession has already been and still with the Petitioners;

(c) Pass appropriate Writs, Orders and/or directions in the nature of prohibition prohibiting the Respondents from claiming any right, interest or concern in respect of above mentioned land of the Petitioners;

(d) Pass appropriate Writs, Orders and/or directions in the nature of declaration declaring that each and every proceeding, if any, or inter-departmental proceedings of the Respondents including alleged transfer of land to DMRC as illegal, null and void.”

2. The background facts are that land in question i.e. Khasra No. 505 (200 Sq. yards) located in Madanpur Khadar Village, Tehsil: Mehrauli, New Delhi was notified under Section 4 of the Land Acquisition Act (LAA), 1894 on 23rd June 1989.

3. This was followed by declaration under Section 6 of LAA on 22nd June 1990 that the land was required for the public purpose of “construction of 100 metres road under planned development of Delhi”. The Land Acquisition Collector (LAC) passed the impugned Award No. 20/1992-93 on 19th June 1992.

4. It is stated that the Petitioners purchased the lands in question through General Powers of Attorney (GPA) from different owners. Petitioner No.1 claims to have purchased Plot No. D-2, Petitioner No. 2 Plot No. D-14A and Petitioner No. 3 Plot No. D-15A, all comprised in Khasra No. 505 from different owners. It is admitted in the petition that Madanpur Khadar, where according to the Petitioners the land in question is located, is an unauthorised colony and is now included in the list of colonies listed for regularisation at Sl. No. 391-B.

5. It is stated that on 3rd December 2012 the Respondents demolished almost the entire colony without any notice. It is stated that being aggrieved by the

demolition, the Petitioners along with the Shram Vihar Abul Fazal Enclave Welfare Society filed a CWP No. 7610/2012 and the learned single judge ordered an enquiry into the demolition. The Society filed another CWP No. 5/2013 in which on 4th January 2013 the residents were temporarily permitted to stay. The ADM (South) prepared a report and mentioned that the land of the Petitioner was also situated in the land acquired vide Award No. 20/92-93. The Welfare Society felt aggrieved against the findings and the observations contained in the said report, hence preferred a W.P. (C) No. 868/2013. The High Court issued notice in the petition which remained pending till it was withdrawn since in the meanwhile the Society filed W.P. (C) No. 1234 of 2014. The last mentioned petition was also later dismissed by this Court as withdrawn by order dated 23rd October 2017 with leave to file a fresh petition in accordance with law.

6. Enclosed as Annexure P-2 to P-8 collectively are the purported ‘sale documents’. However, a close scrutiny of the said documents shows that the properties in question were purportedly purchased through unregistered GPAs. While the GPA in favour of Petitioner No.2 is dated 13th May 2018 the one in favour of Petitioner No.3 is 29th May 2018 i.e. more than 25 years after the Award acquiring the lands in question was passed. Apart from these not being valid legal instruments for transfer of title, it appears that the Petitioners, having full knowledge of the status of the land in question, and without taking permission from the competent authority, in terms of the Delhi Land (Restriction of Transfer) Act, 1972 entered into the said transactions. The original recorded owner, who obviously is not one of the Petitioners, has not challenged the land acquisition proceedings.

7. In the counter affidavit filed by the LAC, it is stated that the subject land had been acquired vide Award No. 20/1992-93 and the vacant physical possession of the land had been handed over to the DDA by LAC on 3rd December 2012. On the aspect of compensation, it is submitted that as per Naksha Muntazim an amount of Rs. 54.57, 297/- was sent to the court of the District Judge under Section 30/31 vide Cheque No. 005221 dated 14th October 2014.

8. No Rejoinder has been filed by the Petitioners to the counter affidavit of the LAC. From the petition, therefore, it is plain that there were a series of transfers of the lands through GPAs, none of which were legally valid documents as regards ownership and title, which form the basis of the Petitioners claim of 'ownership' of the properties in question.

9. In the course of the hearing, it transpired that Village Madanpur Khadar is one of the unauthorized colonies in respect of which a provisional regularization certificate has been issued. On the website of the Department of Urban Development of the GNCTD, the complete list of unauthorized colonies in respect of which tentative application forms and tentative layout plans had been submitted and which are awaiting regularization has been put up. Clearly, therefore, the property in question forms part of the unauthorized colony.

10. This Court has in a series of orders, consistently held that where the property in question is part of an unauthorized colony, no relief under

Section 24 (2) of the 2013 Act can be granted. The legal position has been summarized by the Court in a decision dated 17th January, 2019 in (*Mool Chand v. Union of India*) 2019 (173) DRJ 595[DB] where it was held in paragraphs 48, 49 and 50 as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No.10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on

public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

11. The above decision has been followed and the legal position has been reiterated by this Court in an order dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*).

12. It was contended Mr. Barqui, learned counsel for the Petitioners, that the above decisions of this Court in respect of acquired lands in unauthorised colonies were distinguishable on facts since here the unauthorised colony in question itself stands demolished.

13. The above plea is of no help to the Petitioners since in any event since they claim ‘ownership’ not through valid documents of transfer of title but through unregistered GPAs executed more than 25 years after the passing of the Award. Further, they have no explanation to offer for the inordinate delay in approaching the Court for relief. The legal position in respect of writ petition seeking relief under Section 24 (2) of the 2013 Act being barred by laches was explained by the judgment of the three Judge Bench of the Supreme Court 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/negatived, 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.”

14. 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 (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 (supra)*.

15. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition and the application are dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 04, 2019

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