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

+ **W.P.(C) 11681/2018 & CM APPL. NO. 45135/2018**

DEEPAK DABAS & ANR. Petitioners

Through: Mr. Anil Kumar, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Sanjeev Sagar, Standing Counsel
with Ms. Nazia Parveen for DDA
Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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15.04.2019

1. The prayer in this petition reads as under:

“(a) An appropriate Writ/Order/Direction in the nature of certiorari may kindly be passed in favour of the petitioners thereby calling the record for acquisition of the land situated in khasra No.55/21 min measuring 4 bigha 6 biswas situated in village Pooth Khurd and thereby declaring the notification/declaration bearing No.F.11(17)/2004/L& B/LA dated 19.08.2004 as issued by the Govt. of NCT of Delhi under Section 6 of the Land Acquisition Act, 1894 qua the land situated in khasra No.55/22 min measuring 4 bigha 6 biswas situated in the revenue estate of village Pooth Khurd, Delhi and thereafter the Award dated 12.07.2005 as passed by the Land Acquisition Collector (North West), Delhi qua the land situated in khasra No.55/22 min measuring 4 bigha 6 biswas situated in the revenue estate of village Pooth Khurd, Delhi as illegal, unlawftil

and void ab initio”.

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 21st March 2003, followed by declaration under Section 6 of the LAA on 19th August 2004. The impugned Award No. 07/2005-06/DC(N-W) was passed on 12th July 2005. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. The Petitioners state that they are the sons of one Shri Satya Dev who was the recorded owner of the land comprised in Khasra No. 55/21 admeasuring 4 bighas and 6 biswas in village Pooth Khurd, New Delhi. It is stated in the petition, that the subject land was not part of the notification under Section 4 LAA. It is stated that subsequent to the said Section 4 notification, a declaration was issued under Section 6 LAA was passed which included the Petitioners’ land. It is also stated that the subject land belonging to the father of the Petitioners “was wrongly and illegally included though there was no notification under Section 4 of the Land Acquisition Act, 1894 qua the said land.” It is further stated that the Petitioners still remain in physical possession of the said lands and that the possession of the said lands has not been taken and the compensation has not been paid.

4. It is stated in para 12 of the petition that “the DDA has constructed a boundary wall on the acquired land” for the purposes of “Rohini Residential

Scheme”.

5. The Supreme Court of India in SLP (C) No. 16385-88/2012 titled ‘**Rahul Gupta v. DDA**’ has passed an order dated 18th October 2016 in terms of which possession of the land acquired by the Rohini Residential Scheme is deemed to be with the DDA. Moreover, the Petitioner contends that there is no Section 4 notification with respect to the said land which is also not true. It is an admitted position in Para 3 of the petition that:

“It is clarified that in the said notification the name of the village and other details such like Khasra Nos. etc. were not specified.”

6. The assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioners have no valid explanation to offer for the inordinate delay in approaching the Court for the relief.

7. 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.”

8. The above decision was reaffirmed 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 negated 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.”

9. 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 2019 (173) DRJ 595 DB*.

10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs. The pending application is also disposed of.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 15, 2019

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