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

+ **W.P.(C) 11651/2018 & CM APPL. 45011/2018**

ATUL AGNIHOTRI

..... Petitioners

Through: Mr. Vishal Maan and Mr. Shitiz  
Agnihotri, Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Arjun Pant, Advocate for DDA.  
Mr. Yeeshu Jain, Standing Counsel  
and Ms. Jyoti Tyagi for L&B/LAC

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE I.S. MEHTA**

**ORDER**  
**02.05.2019**

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1. The prayer in the petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the agricultural land ad-measuring 12 biswas comprised in khasra nos. 2/2 min situated in revenue estate of village Chattarpur, New Delhi to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 25<sup>th</sup> November 1980, followed by declaration under Section 6 of the LAA on 7<sup>th</sup> June 1985. The impugned Award No. 15/87-88 was passed way back in 1987. There is no explanation in the petition for the inordinate delay in approaching the Court

for relief.

3. The Petitioner states that he is in possession of the land measuring 12 biswas comprised in khasra No. 2/2 min situated in the Revenue Estate of Village Chattarpur, New Delhi. In para 5 of the petition, it is stated that Mahender Singh, the recorded owner of land, executed a General Power of Attorney (GPA) dated 25<sup>th</sup> September 1987 in favour of Shri Nand Kishore. Thereafter, Shri Nand Kidhore executed a GPA dated 29<sup>th</sup> July 2000 in favour of the Petitioner, which is 13 years after the passing of the Award.

4. The Petitioner states that he is still in possession of the land and has not received any compensation whatsoever. The Petitioner relies on judgments of the Supreme Court in ***Pune Municipal Corporation v. Harak Chand Misiri Mal Solanki (2014) 3 SCC 183*** and W.P.(C) No. 1393/2014 titled ***Gyanender Singh v. UOI*** to state that since the possession of the subject land still lies with the Petitioner and the compensation for the said lands has not been paid by the Respondents, the acquisition proceedings are deemed to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

5. Enclosed as Annexure P-2 and P-3 to the petition are the so-called sale documents. A close scrutiny thereof shows that the property in question purportedly was purchased through a General Power of Attorney (GPA) on 29<sup>th</sup> July 2000. Apart from this not being a valid instrument for transfer of title, it appears that the Petitioner, 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 transaction. The original recorded owner, who obviously is not the Petitioner, has not challenged the land acquisition proceedings.

6. No counter affidavit has been filed by the LAC or the DDA.

7. In any event, the assertion by the Petitioners that he continues to remain in possession of the land in question or that he is otherwise entitled to compensation gives rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. 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.”

9. 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.”

10. 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*.

11. 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 disposed of.

**S. MURALIDHAR, J.**

**I.S. MEHTA, J.**

**MAY 02, 2019/tr**