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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 7865/ 2015

KISHAN CHAND & ORS.

..... Petitioners

Through: Mr. M.P. Bhargava, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi for LAC/L&B
Mr Dhanesh Relan, Standing Counsel
with Mr. Rajeev Jha and Mr. Kamal
Sorout for Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

19.02.2019

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

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition proceedings with respect to 14 Bighas 14 Biswas of the land comprised in Khasra No. 32/2/2 (7-1), 32/2min (0-4), 36 (1-1), 50/1min (0-2), 51/1 (0-4), 52/1min (0-17), 59/1min (0-8), 60/2 (3-8) & 62/1/2 (1-10), situated in the revenue estate of Village Mahipalpur, NCT of Delhi, having lapsed and further quashing the impugned notification No.F.4(98)/64-L-& dated 23.01.1965 issued under Section 4, Notification F.4(98)/64- L&H dated 07.12.1966 issued under Section 6 of the Land Acquisition Act, 1894 and the Award No.2182-C (Supp.) dated 29.04.1974 with respect to 14 Bighas 14 Biswas of the land comprised in Khasra No. 30/2/2 (7-1), 33/2min (0-4), 36min. (1-1), 50/1min (0-2), 51/1 (0-4), 52/1min (0-17), 59/1 min (0-8), 60/2 (3-8) & 62/1/2 (1-10), situated in the revenue estate of Village Mahipalpur, NCT of Delhi.

AND

(ii) issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 14 Bighas 14 Biswas of the land comprised in Khasra No. 30/2/2 (7-1), 33/2min (0-4), 36min (1-1), 50/1min (0-2), 51/1 (0-4), 52/1min (0-17), 59/1 min (0-8), 60/2 (3-8) & 62/1/2 (1-10), situated in the revenue estate of Village Mahipalpur, NCT of Delhi.

(iii) pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. According to the narration in the petition, it is seen that notification under Section 4 of the Land Acquisition Act, 1984 ('LAA') was issued on 23RD January 1965 followed by declaration under Section 6 LAA on 7th December 1966. The award No. 2182-C (suppl.) was passed way back on 29th April 1977.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioner or her predecessors-in-interest were ever the recorded owners of the land. It is submitted that the Award No. 21821-C (Suppl.) was passed on 29th April 1974 and that physical possession of land comprising of Khasra Nos. 30/2/2 (7-01), 60/2 (1-00) and 33/2 (0-04) was taken on 29th March 2007 and of Khasra Nos. 60/2 min (2-08) and 62/1/2 (1-10) was taken on 3rd August 2006. It is further submitted that the compensation has been deposited with the Reference Court as the entitlement of the persons interested was not clear from the revenue records.

4. No rejoinder has been filed to the counter-affidavit of the LAC. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question or that compensation was not tendered gives rise to a disputed question of facts. Learned counsel for the Petitioner

sought time to file a rejoinder. However, considering that the LAC filed its counter affidavit on 5th March 2016, clearly the Petitioner had more than sufficient time to file rejoinder. The request is, therefore, declined. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

5. 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.”

6. 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 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 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. The above observations have been followed by this Court in several orders including the order dated 10th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

8. 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.

9. The interim order of this court dated 19th August 2015 which was made absolute on 30th November 2017 stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 19, 2019