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

+ **W.P.(C) 9090/2017**

LAYAK RAM

..... Petitioner

Through: Ms. Anubha Singh, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Mrinalin Sen with Mr. Tanmay
Yadav for DDA

Mr. Yeeshu Jain, Standing Counsel and Ms. Jyoti
Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

20.03.2019

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CM APPL 11016/2019 (Delay)

1. For reasons stated in the application, the delay of 94 days is condoned.
The application is disposed of.

W.P. 9090/2017 & CM APPL. 10962/2019(U/O 22 R-3)

2. The prayers in the petition read as under:

“It is therefore most humbly prayed that this Hon'ble Court may
be graciously be pleased to:

a. Issue a writ, order or declaration declaring that the entire
acquisition proceedings including the award bearing No.
205/1986-87 of Village Kotla Mahigram, Tehsil-Mehrauli, New
Delhi; in respect of the land of the petitioner i.e. 1/9th share of
Khasra No. 213(4-12), 214(4-14), 214/1(0- 17), 217(4-16), 218(4-

16), 237/2(3-18), 271(4- 16),302(4-16),303(4-16) total admeasuring 38 Bigha 1 Biswa and being 1/36 joint share in Khasra no 170 (0-4), 315 (4-16), 316 (1-10), 317 (6-0), total measuring 12 biglias 10 biswas, situated in tfie revenue estate of Village Kotia Mahigram, Tehsil Mehrauli, New Delhi have lapsed in view of Sub-Section 2 of Section 24 of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013"; and further issue order or direction quashing the impugned notification no. f.4(9)/64 l&h dated 06.04.64 issued under section 4, notification no. f.4(9)/1964/L&H dated 07.12.1966 issued under section 6 of the land acquisition act, 1894 and the award no. 205/1986-87 of village Kotla Mahigram, Tehsil- Mehrauli, New Delhi.

b. Issue a writ of Mandamus directing the respondents not to interfere with and/or obstruct the petitioner in the peaceful enjoyment over the aforesaid land being 1/9th joint share of Khasra No.213(4-12), 214(4-14) ,214/1(0-17), 217(4- 16), 218(4-16),237/2(3-18), 271(4-16),302(4- 16),303(4-16) total admeasuring 38 Bigha 1 Biswa and being 1/36 joint share in Khasra no 170 (0-4), 315 (4-16), 316 (1-10), 317 (6-0), total measuring 12 bighas 10 biswas, situated In the revenue estate of Village Kotla Mahigram,Tehsll- Mehrauli,New Delhi or in alternative acquire the said land as per the provisions of New Act i.e. 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

c. Call for the entire records of acquisition proceedings from the offices of concerned respondents and after examination of the records, quashed the acquisition proceedings or declare the same as having lapsed; and Pass any such other or further order and/or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice.”

3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') 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.

There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that the physical possession of Khasra Nos. 213(4-12), 214(0-17), 214(4-14), 217(4-16), 218(4-16), 237/2(3-8), 271(4-16), 302(4-16), 303(4-16), total admeasuring 38 bighas 1 biswa was taken on 12th December 1996, 04th December 1986 and 17th July 1987. It is also submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioner or his predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that the compensation was sent in the RD in the name of Recorded Owners.

5. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra Nos. 213 (4-12), 214 (4-14), 214/ 1 (0-17), 217 (4-16), 218 (4-16), 237/2 (3-18), 271 (4-16), 302 (4-16), 303 (4-16) and 1/36th joint share in land bearing Khasra No(s). 170 (0-4), 315 (4-16), 316 (1- 10), 317 (6-0) was acquired by the LAC on 04th December 1986, 17th July 1987, 12th December 1996 and 5th March respectively and handed over to the DDA.

6. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC or the DDA. In any event, the assertion by the Petitioner that he continues to remain in possession of the land in question or that compensation has not been tendered 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.

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 has been 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 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 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.”

9. The above observations have been followed by this Court in several orders including *Mool Chand v. Union of India 2019 (173) DRJ 595[DB]* and similar petitions have been dismissed on the ground of laches.

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 applications are also dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 20, 2019
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