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

+ **W.P.(C) 7570/2015**

TARUN MITTAL Petitioner

Through: Mr. Deepak Khosla & Mr. Samit
Khosla, Advocates

versus

UOI AND ANR Respondents

Through: Mr. Yeeshu Jain & Ms. Jyoti Tyagi,
Advocates for Respondent/LAC/L & B
Mr. Dhanesh Relan, Standing counsel with
Ms. Mrinalini Sharma, Advocates for
Respondent/DDA

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

31.01.2019

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1. The prayer in the present petition reads as under:-

“to issue a writ / order / direction in the nature of certiorari calling for the records of the acquisition proceedings with respect to the lands comprised in Khasra Number. 780/729/217 (10-10) situated in the revenue estate of village Ghazipur, Delhi acquired vide Award No. 27-D/1970-71 pronounced on 23.02.1977 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as neither possession of the lands of the petitioner have been taken nor compensation with respect to lands have been paid..

Award cost of proceedings to the humble petitioner.”

2. From the narration of the petition it is seen that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was passed on 13th November 1959 which was followed by a declaration under Section 6 of the LAA. The award No.27-D/1970-71 was passed way back on 28th August 1970. According to the Petitioner despite the above award, paper possession was taken and actual physical possession of the lands at all times remained with the Petitioner.

3. The Petitioner states that the land in question was owned and possessed by Shri Vidhya Bhushan Mittal, father of the Petitioner who expired on 31st January, 2006. According to the Petitioner, prior to his demise Shri Vidhya Bhushan Mittal transferred the land in favour of the Petitioner by an agreement to sell dated 10th June, 2000 'for valuable consideration'. Copy of the agreement to sell and the death certificate has been enclosed as Annexures P-2 and P-3 respectively.

4. Thereafter the Petitioner straightway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 ('the 2013 Act') which came into force on 1st January, 2014. Accordingly, a prayer is made for a declaration of deemed lapsing of the land acquisition proceedings under Section 24(2) of the 2013 Act.

5. The petition was first listed for hearing on 11th August, 2015. A status-quo order was passed by the Court on 11th August 2015 while directing notice to issue in the petition. This status-quo order has been made absolute

on 8th January, 2018.

6. The LAC has filed the counter affidavit on 3rd February, 2018 where in paras 4 & 5 it is stated as under:

“4. That the present writ petition is further liable to be dismissed as the petitioner has not placed on record any document to show his entitlement to file the present writ petition except an 'Agreement to Sell' - which was executed between him and his father. The said document is itself a vague one as no specific land details have been furnished in the said document thus in the absence of any specific details regarding the land, nothing could be ascertained as to for which land and for how much area, the said 'Agreement to Sell' was allegedly executed between the father and the son. The alleged 'Agreement to Sell' has also lost its sanctity, if any as the executor of the said document has since expired in the year 31.1.2006 and no suit for specific performance has since been filed nor any sale deed has been executed between the parties.

5. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra no. 780/729/217 (10-00) was duly taken on the spot on 18.4.1977 on the spot and handed over to DDA by preparing possession proceeding on the spot. The status of payment of compensation is as per the table attached which reflected that the compensation was paid to various claimants as Annexure R- 1.”

7. It must be mentioned here that no rejoinder affidavit has been filed till today to the above counter affidavit.

8. Therefore, the question of taking of possession and the payment of compensation are both disputed questions of fact which obviously cannot be examined in the present petition.

9. In any event, there is no explanation in the entire petition for the inordinate delay in approaching the Court for relief. Counsel for the Petitioner stated orally (and this is not mentioned in the petition) that the Petitioner had got the LAC to make a reference under Section 18 of the LAA to the Court of the learned Additional District Judge sometime in 1993 and that since the Petitioner learnt that the compensation amount had been deposited in the Revenue Deposit ('RD'), the Petitioner was unable to pursue the reference application. When pointedly asked what exactly prevented the Petitioner from pursuing the reference, counsel for the Petitioner was unable to give any satisfactory reply.

10. That the petition is barred by laches is apparent from the above discussion. That, therefore, the Petitioner would not be entitled to relief since that score is now settled by the decision of the Supreme Court in ***Mahavir v. Union of India (2018) 3 SCC 588*** in which it has been 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.”

11. The above decision has been affirmed by the subsequent 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 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.”

12. The present petition is dismissed both on the ground of laches as well as on merits. The interim orders of status-quo are hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 31, 2019

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