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

+ **W.P.(C) 8004/2015**

FEROZE SULTAN EJAZ & ANR.

..... Petitioners

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

versus

UOI & ORS.

..... Respondents

Through: Mr. Siddharth Panda, Advocate for
LAC/L&B.
Mr. Pawan Mathur, Advocate for
DDA.
Mr. Rajesh Kumar, Advocate with
Mr. Nikhil, Advocate for UOI.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

% **ORDER**
18.01.2019

SANJEEV NARULA, J.:

1. The prayer in this writ petition reads as under:

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to 1 Bigha 4 Biswas land of the Petitioners comprised in Khasra No. 194/2/2 (Q-19) & 195/7 (0-5), situated in the revenue estate of Village Sultanpur, Tehsil Mehrauli, NCT of Delhi having lapsed and further quashing the impugned notification No.F.15(245)/60-LSG dated 24.10.1961 issued under

Section 4 of the Old Land Acquisition Act, notification No.F.19(136)/62-L&H (III) on 04.01.1969 issued under Section 6 of the Old Land Acquisition Act and the Award No.24-A/74-75 with respect to 1 Bigha 4 Biswas land of the Petitioners comprised in Khasra No.194/2/2 (0-19) & 195/7 (0-5), situated in the revenue estate of Village Sultanpur, Tehsil Mehrauli, 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 to return and restore the 1 Bigha 4 Biswas land of the Petitioners comprised in Khasra No.194/2/2 (0-19) & 195/7 (0-5), situated in the revenue estate of Village Sultanpur, Tehsil Mehrauli, 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. In present case, a Notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 24th October 1961 followed by declaration under Section 6 of the LAA on 4th January 1969 for public purpose namely for “planned Development of Delhi”. Thereafter an Award bearing No. 24-A/1974-75 was rendered on 24th June 1983.

3. Counsel for the Petitioners submits that, compensation for the subject land has not been paid to the Petitioners nor the possession of the land has been taken by the Respondents till date. Thus, the Petitioners are entitled for a declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as

“the Act”), to the effect that the acquisition proceedings in respect of the subject land stand lapsed.

4. On the contrary, learned counsel for the LAC submitted that physical possession of the subject land falling in khasra No. 194/2/2(0-19) and 195/7(0-5) was taken on 27th June 1983 and handed over to the beneficiary department. Learned counsel further submits that compensation was sent to RD on 1st September 1983 in the name of Sultan s/o Mohd. Ibrahim and Feroz Jiyaul Rehman s/o Mohd. Ibrahim.

5. The stand of LAC is fortified by the Counter affidavit filed by the DDA. DDA in its counter affidavit has raised a preliminary objection of maintainability of the present petition for raising disputed questions of fact and for failure of the Petitioners to challenge the acquisition proceedings for several years. DDA’s affidavit also encloses the copy of the possession proceedings.

6. No rejoinder has been filed by the Petitioners to contradict the above assertions of the LAC and DDA respectively. Thus the averment of the Petitioners about continuing to remain in possession of the land becomes a disputed question of fact.

7. This petition has been filed invoking the extraordinary power of the Court under Article 226 of the Constitution of India. It is a settled position of law that, this Court, in the exercise of Writ Jurisdiction, does not delve into disputed question of rights and title of the parties. Thus matters in which disputed questions of fact are involved, cannot be decided in a summary proceeding based

solely on the pleadings of the parties. Such disputed matters must be decided by the Civil Courts after recording of due evidence in the matter.

8. No explanation whatsoever has been offered in the petition for the inordinate delay in coming forward to seek relief under Section 24 (2) of the 2013 Act. The Award for the subject land was passed on 24th June 1983 whereas the present petition has been filed after more than three decades and no other steps have been taken by the Petitioners. The petition is obviously barred by laches.

9. After the passing of the 2013 Act, the Petitioners have approached this court claiming that they are in possession of the land in question. There is no document annexed in the Petition or any averment made by the Petitioners that would even remotely indicate that Petitioners continued in possession. Be that as it may.

10. In ***Mahavir v. Union of India (2018) 3 SCC 588***, the Supreme Court held 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 aforesaid Judgment has been considered by the Supreme Court in the decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“In re: Question (iii)

Whether Section 24 of the 2013 Act revives stale/bared claims?

120. In several cases, the challenge to the acquisition has become stale and otherwise barred. The question arises whether a beneficial provision of Section 24 of the 2013 Act revives such claims and the courts can entertain them.

123. The question arose as to whether the court can interfere in such cases? The Court's discussion on the legal aspects involved in *Mahavir case*, and its decision thereon, is summarised hereunder. The petition was dismissed on the ground of delay and laches, holding that it destroyed the remedy. It was further held that Section 24 does not revive non-existing or dead claims; it only ensures that claims, which were alive, would be examined.

127. Thus, when we ponder as to the instant case, qua the re-opening of stale claims under Section 24 of the 2013 Act, no “Johnny come lately” can be permitted to assert that he is in possession (claiming that physical possession has not been taken away from him), when

such assertion has not been made for decades together. Such claims would not be revived after the person has slept over them; the courts must not condone sudden wakefulness from such slumber, especially in relation to claims over open pieces of land, and even houses/structures, when the person may have illegally re-entered into the possession or may have committed trespass. Thus, for the aforesaid reasons, such claims cannot be entertained or adjudicated under Section 24 of the 2013 Act.”

12. This Court has on 10th December 2018 in W.P.(C) 2734/2015 (***Devender Singh v. The Hon'ble Lt. Governor***), 17th December 2018 in W.P.(C) 1380/2016 (***Bhule Ram v. Union of India***), 21st December 2018 in W.P.(C) 5647/2016 (***Ram Deviv. Govt of NCT of Delhi***), and on 19th December 2018 in W.P.(C) 6287/2014 (***Kartar Singh v. Union of India***), rejected petitions seeking similar reliefs on the ground of laches.

13. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the Court dismisses the present petition both on the ground of laches as well as merits. The application is also dismissed.

SANJEEV NARULA, J

S.MURALIDHAR, J

JANUARY 18, 2019

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