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

+ **W.P.(C) 7960/2015**

WAKIL KHAN & ANR.

..... Petitioners

Through: Ms. Aishwarya Anand, Advocate

versus

LAND ACQUISITION COLLECTOR (SOUTH) & ANR. Respondents

Through: Mr. Dhanesh Relan, Standing Counsel
with Mr. Rajeev Jha and Ms. Mrinalini Sharma 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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1. The prayers in the petition read as under:

“i) issue a writ of certiorari or any other appropriate writ, order or direction, declaring that the Land Acquisition proceedings initiated by Notification No. F.4(2) L & H dated 23.01.1965 under section 4 and Declaration No. F. 4 (2) 65 L& H, dated 13 01.1969 under section 6 of the Land Acquisition Act, 1894, qua the petitioners land bearing as Khasra No. 22/2 (4 - 0), 222/1 (3 - 11), 223 (4 - 16), 224 (4- 16), 226 (2- 8), 187 (3- 7), 188 (4 - 16), 239/1/1 (0 - 12), 90 (2 - 12), 353 (4 - 16), 354 (3 - 10), 355 (3 - 14), 43 Bigha in all, in Village Pul Pehlad, New Delhi, resulting in Award No.63 / 1982-83, as having lapsed by virtue of section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

ii) further, to direct the respondents to place the petitioners in legal physical possession of their land bearing as Khasra No. 22/2 (4-0), 222/1 (3 - 11), 223 (4- 16), 224 (4- 16), 226 (2-8), 187 (3 - 7), 188 (4 - 16), 239/1/1 (0 - 12), 90 (2 - 12), 353 (4 - 16), 354 (3 - 10), 355 (3 - 14), in Village Pul Pehlad, New Delhi, resulting in AwardNo.63 / 1982-83, without any cloud in their title or possession and alternatively, since no compensation has been paid to the petitioners/their forefathers, in respect of this entire land, till date. In case the respondents wish to acquire the said land they are to do so, under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

iii) pass such other order or directions as ay be deemed fit and proper in the facts and circumstances of the case in favour of the petitioners and against the respondents.

iv) Costs of this petition may be allowed in favour the petitioners and against the respondents.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd January 1965, followed by declaration under Section 6 of the LAA on 13th January 1969. The impugned Award No. 62/82-83 was passed on 31st January 1983. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No.143/27(0-18) was taken and handed over to the DDA on 4th March 1983. It is also submitted that the Petitioner has not filed any revenue nor any title documents to support the contention that the Petitioners or their predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that “compensation

was also paid to the respective claimants/interested persons/ recorded owner way back on 19th April 1983, 3rd June 1983, 06th June 1983, 26th April 1983 and 12th April 1983 respectively as per Naksha Muntazamin.”

4. 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 No. 222/1 (3-11), 323 (1-02), 224 N(1-02), 226 (2-08) & 239/1/1 (012) was acquired by the LAC on 8th May 1987, Khasra No. 223/2 (3-14), 224/2 (4-04), 353 (4-16) & 354 (3-10) was acquired on 4th March 1983, Khasra No. 22/2 was acquired on 11th September 1982 and Khasra No. 90(2-12) was acquired and handed over to the DDA. It is further submitted that compensation was released through Commissioner (L&H) through Revolving Fund to concerned LACs which was duly paid.

5. The Rejoinder filed by the Petitioner to the counter affidavit of DDA and LAC merely reiterates the averments in the petition. It is denied that any compensation was received by Petitioners in respect of Award No. 62/82-83. It is stated that the LAC has not taken the ‘actual physical possession’ till date.

6. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question or that compensation has not been tendered give rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioners have 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 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.”

9. The above observations have been followed by this Court in several

orders including the order dated 17th January, 2019 in (*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.

11. The interim order dated 24th August 2015 which stood confirmed on 15th January 2018 stands vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 20, 2019
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