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

+ **W.P.(C) 7961/2015 & CM 16172/2015**

PINTOO

..... Petitioner

Through: Mr. Rajesh Gupta with Mr. Harpreet
Singh, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.
Mr. Dhanesh Relan, Advocate for
Respondent/DDA
Ms. Rajesh Kumar for UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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08.07.2019

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

“a) Issue a writ, of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect of 4 Bigha 16 Biswas of land comprised in Khasra nos 52//17 (4-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi having lapsed and further quashing the impugned notification No. F.10(29)/96/L&B/LA/11394 dated 27-10-99 issued under section 4, Notification No. F.10(29)/96/L&B/LA/20 dated 03-04-2000 issued under section 6 of the Land Acquisition Act, 1894 and the Award no. 14/2002-03 with respect to 4 Bigha 16 Biswas of Land comprised in Khasra nos. 52//17(4-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi.

AND

b) 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 the physical possession and enjoyment of the Petitioners with respect to 4 Bigha 16 Biswas of Land comprised in Khasra nos. 52//17 (4-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi.

c) Award costs of the writ petition in favour of the petitioner.”

2. In the present petition, the main relief sought is for a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’). The declaration is sought in respect of land situated in the Revenue Estate of Village Prehlad Pur Bangar in Delhi. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 27th October 1999 followed by declaration under Section 6 LAA on 3rd April 2000. The impugned Award No.14/2002-03 was passed on 8th July 2002. The public purpose of the acquisition was for the Rohini Residential Scheme.

3. It is stated in the petition that the 4 Bighas 16 Biswas of land comprised in Khasra No. 52//17 (4-16) [hereafter ‘subject land’] was allotted to the father of the Petitioner as ASAMI by the Gram Sabha, in furtherance of which copies of the allotment certificate and pass book have been enclosed with the petition. It is stated that after the expiry of the father of the Petitioner, the other legal heirs relinquished their respective shares in the subject land in favour of the

Petitioner by a relinquishment deed dated 23rd January 2013. The Petitioner claims that he continues to remain in possession of the subject land and has not been paid compensation till date. It is further stated that the concerned Land Acquisition Collector (LAC) has not tendered or paid compensation under Section 31(1) LAA or deposited the same in Court under Section 31(2) LAA. Thereafter the petition straightaway refers to the passing of the 2013 Act and that the acquisition proceedings stand lapsed under Section 24 thereof since no compensation has been paid to the Petitioner and he has remained in continuous physical possession of the subject land.

4. In the counter affidavit filed on behalf of the DDA, it is submitted that the impugned Award was passed for the public purpose of the 'Planned Development of Delhi'. It is stated that the physical possession of the subject land was handed over to the DDA by the LAC on 9th May 2000. A copy of the possession proceedings has been annexed along with the affidavit. It is further stated that on 20th May 2002, possession of the land in question was transferred to RPD –IV for the Rohini Residential Scheme. The LAC (NW) passed the Award No.14/2002-03 on 8th July 2002. As regards payment of compensation, it submitted that the DDA has already remitted the payment of compensation "in lump sum to the LAC through the Land & Building Department in respect of five villages of Rohini Phase IV & V including Village Prehlad Pur Bangar, vide Cheques No.033657 and 282364 both dated 3.12.1999 for Rs.100 Crores and Rs.50 crores respectively and Cheque No.086821 dated 24.03.2003 for Rs.130,80,17,600/- in respect of 5 villages including the land in question of

Village Prehlad Pur Bangar for disbursement among the eligible persons interested land owners.” It is further submitted that the acquisition proceedings with respect to the subject land have attained finality and the land vests with the Government free from all encumbrances. It is also mentioned in para f (xii), that with regards to the land in question also being part of an unauthorized colony awaiting regularization, the issue falls within the jurisdiction of the GNCTD and that the subject land is a crucial part required for the Rohini Residential Scheme.

5. In the counter affidavit filed by the LAC(NW), it is submitted that the present petition is liable to be dismissed as the Petitioner, who has claimed ownership of the subject land as ASAMI by way of inheriting the title from his father, has not been able to place on record any document to show that the subject land was allotted to his father and that he was declared as ASAMI. It is further submitted that no *bhumidari* rights were conferred in the name of the father of the Petitioner and that the sole owner of the subject land was the Gaon Sabha. Furthermore, the Petitioner is silent on the legal aspect as to whether the cultivator rights of an ASAMI are ipso facto transferable on the death of an ASAMI as the father of the Petitioner expired on 16th November 1986. It is stated that the father of the Petitioner was at best allowed to cultivate the subject land for a period of five years and thus, even the compensation for the same was assessed in the name of the Gaon Sabha and paid to the Gaon Sabha through BDO(N/W) by Cheque No.550098 dated 25th March 2003 and actual vacant physical possession was taken on the spot on 9th May 2000 by preparing

possession proceedings. It is also submitted that the petition ought to be dismissed on the ground of delay and laches.

6. No rejoinder has been filed by the Petitioner to either of the counter affidavits filed on behalf of the Respondents.

7. Be that as it may, inasmuch as the lands were acquired for the Rohini Residential Scheme, on the question of actual physical possession, a reference needs to be made to the orders passed by the Supreme Court on 10th March 2015, 28th January 2016 and 18th October 2016 in SLP (C) Nos. 16385-88/2012 (*Rahul Gupta v. Delhi Development Authority*) and in the interlocutory applications ('I.As') in the said SLPs. Although, in the order dated 10th March 2015, the Supreme Court referred to the acquisition of land for the Rohini Residential Scheme in Sectors 34, 35, 36 and 37, in the subsequent order dated 18th October 2016, it was made clear that the effect of the said order of the Supreme Court was to be applied to all the lands acquired for the Rohini Residential Scheme. In the order dated 18th October 2016 while disposing of various I.As in the aforementioned SLPs, the Supreme Court directed as under:

“Heard Mr. V. Giri, learned Senior Counsel appearing for the applicants and perused the interlocutory applications.

In view of the order dated 10.03.2015, passed by this Court in SLP (C) Nos. 16385-16388 of 2012, and a subsequent order dated 28.01.2016, passed in the same special leave petitions, the interim order passed by the High Court of Delhi on 04.3.2015 in W.P.(C) No. 1915/2015 (Annexure A-4 in the instant interlocutory applications), is liable to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters, pertaining to land acquisition relating to the Rohini Residential Scheme**, pending before the High Court, for vacation of similar interim directions.

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and hand over its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

8. These directions were repeated in the remaining I.As which were disposed of on the same date i.e. 18th October 2016. In effect therefore, the position is that if anyone still in possession of lands acquired for the Rohini Residential Scheme had not surrendered possession thereof to the DDA within ten days of the order dated 18th October 2016, then the possession thereof was deemed to be with the DDA. It would no longer be open to such persons to contend that actual physical possession of the lands in question remains with the Petitioners.

9. This legal position has been clarified by this Court in its order dated 22nd November 2018 in W.P. (C) 51118/2016 (*Jawahar Singh v. Lt. Governor* and reiterated in the order dated 25th January 2019 in W.P. (C) 3438/2015 (*Krishna Devi v. Union of India*).

10. As regards the claim for compensation, the entitlement of the Petitioner has been disputed by the Respondents in their counter affidavits to which no rejoinder has been filed. This, therefore, gives rise to a disputed question of fact which cannot be examined in these proceedings. On merits, neither of the two essential conditions for grant of relief under Section 24 (2) of the 2013 Act stands fulfilled.

11. In any event, the fact remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief. The claim for compensation is being made with reference to an Award that was passed on 8th July 2002. In *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 the Supreme Court observed as under:

“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. It may be noted here that the reference made by a Constitution Bench in

Indore Development Authority v. Shyam Verma (2018) 4 SCC 405 regarding the correctness of the aforesaid decision in *Indore Development Authority v. Shailendra* (*supra*) is only as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki* (*supra*) regarding the tendering of compensation, and not on the question of the petition seeking declaration under Section 24 (2) of the 2013 Act being barred by laches. This legal position was explained by this Court recently in its decision in *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

13. In the circumstances, it is not possible to grant the Petitioner relief under Section 24 (2) of the 2013 Act. The writ petition is dismissed both on the ground of laches as well as on merits. The interim order dated 24th August 2015 hereby stands vacated. The application is disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JULY 08, 2019

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