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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7845/2017**

M/S PUNJAB POTTERIES Petitioner
Through Mr. Vishal Maan, Advocate
versus

GOVT OF NCT OF DELHI AND ORS Respondents
Through Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha & Mr. M.S.Akhtar,
Advocates for Respondents No.1 & 2
Mr. Sanjeev Kumar Singh, Advocate
for Respondent No.3/DDA
Mr. Dig Vijay Rai, Advocate for
Respondent No.4/AAI

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

ORDER
% **02.05.2019**

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

i. Issue of an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioner comprised in khasra nos. 1815/2 (0-04), 1828 (4-16), 1817/2 (0-14), 1829 (4-19), 1818/2 (0-4), 1830 (2-10), 1821/2 (0-15), 1831 (4-16), 1824/2 (0-3), 1833/1 (4-7), 1825/2 (0-8), 1843 (1-6) total admeasuring 25 bighas 2 biswas, situated in revenue estate of Village Nangal Dewat, Tehsil Nagafgarh, New Delhi, to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

ii. Pass any further order/s that this Hon'ble Court may deem fit and

proper in the facts and circumstances of the present case.”

2. It is averred in the petition that the Petitioner is a partnership firm and recorded owner of the aforementioned lands situated in the revenue estate of Village Nangal Dewat, The land in question was notified for land acquisition by way of a notification dated 3rd December, 1971 issued under Section 4 of the Land Acquisition Act, 1894 (LAA) for the public purpose of development of the Delhi Airport. After the objections filed by the Petitioner under Section 5-A of the LAA were rejected a declaration under Section 6 LAA was issued on 10th July, 1972. Award No. 23(A)/1973-74 was passed by the Land Acquisition Collector (LAC) on 20th July, 1977. Supplementary Award No.23A/1973-74 was announced on 10th April, 1980. Supplementary Award No. 23B was announced on 4th September, 1986.

3. The Petitioner does not dispute that it is no longer in possession of lands in the question. The counter affidavit by the LAC confirms that in different phases physical possession of the lands in question were taken. In the first phase between 9th October, 1973 to 15th November, 1979; again on 16th April, 1980.

4. The counter affidavit of the LAC states that out of the 27 bighas and 2 biswas of land in respect of which the supplementary award was announced on 4th September, 1986. The land belonging to the Petitioner was 25 bighas and 2 biswas. It is further pointed out that the Petitioner through its sole proprietor filed an appeal under Section 18 of the LAA in the Court of the Additional District Judge by way of LAC No.247/1981 seeking

enhancement of the compensation. By an order dated 17th April, 1989 the learned ADJ enhanced the compensation from Rs. 11,000/- per bigha for block A, B and C land and Rs. 7000 per bigha for Block D land along with solatium interest at Rs. 13000 per bigha.

5. In the counter-affidavit filed by the DDA, it is submitted that the allotment of plot does not come under the domain of DDA, therefore there is no cause of action against it. It is respectfully submitted that lands at Nangal Dewat, Tehsil Nagafgarh, New Delhi were acquired for the Airport Authority of India and not for DDA.

6. In the counter affidavit filed by the Airport Authority of India(AAI) it is stated that physical possession of the said lands was handed over to the AAI by the LAC from 9th September 1973 to 15th November 1979. On the aspect of compensation it is stated that compensation of Rs. 3,99,99,904/- was paid by AAI to the LAC. It is further stated that the Petitioner through its proprietor filed an appeal being LAC No. 247/1981 under Section 18 of the LAA. It is stated that vide order dated 17th April 1989 the compensation for the subject land was enhanced. Further, the Under Secretary, LAC vide letter dated 18th January 1991 requested the Assistant Law Manager, AAI to remit the payment of enhanced compensation amounting to Rs. 6,04,265.19- / in the name of the Petitioner. The Assistant Law Manager deposited Cheque No. 691040 dated 10th July 1991 in the LAC Branch, Tis Hazari Courts.

7. The rejoinder filed by the Petitioner to the counter affidavit of LAC states

that although physical possession of the lands has been taken, the land still lies vacant. It is further stated that compensation has not been paid to the Petitioner. In the rejoinder filed to the counter affidavit of the AAI, the Petitioner states that no letter for enhancement of compensation was sent and that such letter has not been brought on record.

8. The present petition, filed through a General Power of Attorney (GPA holder), seeks a declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (the 2013 Act). Although the Petitioner contends that no compensation has been tendered, it is clear from the counter affidavit not only by the LAC but also by the AAI that the compensation amount stands deposited in the Court of the learned ADJ. There is no denial of the above fact in the rejoinder filed by the Petitioner. The Petitioner has also not sought to explain why it did not seek the compensation before the Court of the learned ADJ.

9. Learned counsel for the Petitioner placed reliance on the decision in ***Government of NCT of Delhi v. Manav Dharam Trust (2017) 6 SCC 751*** and sought to draw a distinction between the challenge to the acquisition proceedings earlier and the remedy now being sought under Section 24(2) of the 2013 Act. He placed particular emphasis on the following observations of the Supreme Court in the said decision:

“22. It is one thing to say that there is a challenge to the legality or propriety or validity of the acquisition proceedings and yet another thing to say that by virtue of operation of a subsequent legislation, the acquisition proceedings have lapsed.”

10. On the Petitioner's own admission, the challenge made by it twice to the land acquisition proceedings failed - once in 1987 and again in 2007. In such circumstances, to again invoke Section 24(2) of the 2013 Act is not permissible as explained in the decision 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/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.”

11. The decision of the Supreme Court in ***Government of NCT of Delhi v. Manav Dharam Trust*** (*supra*) was passed by a bench of two judges whereas the decision in ***Indore Development Authority vs. Shailendra*** (*supra*) was later and by a larger bench of three Judges of the Supreme Court.

12. Consequently, the Court finds no merit in this petition in so far as it seeks a declaration of deemed lapsing of the land acquisition proceedings under Section 24(2) of the 2013 Act. The dismissal of this writ petition will, however, not prevent the Petitioner from approaching the court of the learned ADJ for compensation under the LAA, which amount stands deposited in that Court.

13. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 02, 2019

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