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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 12410/2018 & CMs 48121/2018, 29704/2019**  
SATISH YADAV & ORS. .... Petitioners  
Through: Mr. R.S. Dalal, Advocate  
  
versus

UNION OF INDIA & ORS. .... Respondents  
Through: Mr. Ajay Prakash Sahay,  
CGSC for R-1 and R-2.  
Mr. Yeeshu Jain, Standing  
Counsel with Ms. Jyoti Tyagi  
Advocate for LAC/L&B.  
Ms. Mrinalini Sen and Ms.  
Kritika Gupta, Advocates for  
DDA.

**CORAM:**  
**JUSTICE S.MURALIDHAR**  
**JUSTICE TALWANT SINGH**

**ORDER**  
% **05.07.2019**

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

“(I) Issue writ of DECLARATION and/or any other appropriate Writ, Order or Direction in the like nature declaring the impugned acquisition proceedings lapsed, commenced vide notification under Section 4 of Act 1894 bearing notification No. F.11 (19) 2001/L&B/LA/20112 Dated 21/03/2003 under Section 4 of LA Act, 1894; declaration under Section 6 of the Act vide notification no. F.11 (11)/2004/L&B/LA/28281, resulting in Award no. 12/2005-06 vis-à-vis land admeasuring 1 bighas comprised in Khasra No. 39//15/2 situated in revenue estate of Village Barwala Delhi;

(II) Consequently issue writ of CERTIORARI quashing the impugned acquisition proceedings commenced vide notification No. .F.11(19) 2001/L&B/LA/20112 Dated

21/03/2003 under Section 4 of LA Act, 1894; declaration under Section 6 of the Act vide notification no. F.11 (11)/2004/L&B/LA/28281, resulting in Award no. 12/2005-06 vis-à-vis land admeasuring 1 bighas comprised in Khasra No. 39//15/1 situated in revenue estate of Village Barwala Delhi

(II) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents not to interfere with and/or obstruct the Petitioner and his co-owners in peaceful enjoyment of the subject land i.e land admeasuring 1 bighas comprised in Khasra No. 39//15/1 situated in revenue estate of Village Barwala, Delhi;

(IV) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents to access the amount of compensation as per the New Act Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

2. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 21<sup>st</sup> March 2003 followed by a declaration dated 19<sup>th</sup> March 2004 under Section 6 LAA. The impugned Award No. 12/2005-06/DC (NW) was passed on 5<sup>th</sup> August 2005. The public purpose of the acquisition was for the Rohini Residential Scheme.

3. It is stated in the petition that the Petitioners are the co-owners/co-*bhumidar* as well as in actual physical possession of the land up to the extent of 1 bigha comprised in Khasra No.39//15/2 (hereafter ‘subject land’). It is stated that the subject land was purchased by the father of the Petitioners from the recorded owner, namely one Shri Raghbir Singh on 27<sup>th</sup> September 1985 by way of sale deed. It is stated that

mutation of the land was sanctioned in favour of the father of the Petitioners and after he expired, the subject land was inherited by the Petitioners “by way of mutation of inheritance vide file no. O.4. Serial No. 623, file No. 1672/00/96, thereby recorded the name of the Petitioner as owner in the revenue record.” A copy of the *Khatoni* has been annexed along with the petition. It is also stated that despite making applications for the same, no compensation has been released to the Petitioners or even referred to the Civil Court under Section 30 or 31 of the LAA. The case of the Petitioners is that since they have not received any compensation and still remain in possession of the land in question, therefore, they are entitled to the relief under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’).

4. It is pertinent to note that the same land acquisition proceedings in respect of lands in the Revenue Estate of Village Barwala, were challenged in an earlier round of litigation by way of a batch of writ petitions where the lead matter was W.P. (C) 2501/2013 (***Naresh Kumar & Ors. v. Union of India***). By a detailed judgment dated 17<sup>th</sup> April 2013, a Division Bench (DB) of this Court dismissed the writ petition *inter alia* holding as under:

“We, at the inception, put to learned senior counsel for the petitioners as to why and how can we permit a settled position to be unsettled after a decade. This is so as the petitioners chose to remain silent when the acquisition proceedings were initiated, accepted the same, took compensation and sought references for enhancement of compensation. The aforesaid facts have to be examined in the conspectus of the purpose for which the land was acquired which was planned development of Rohini

Residential Scheme. In Delhi there has been large scale acquisition by the DDA which was originally the only authority which was engaged in development of land and meeting the housing needs of the people. No doubt in this process while large tracts of land were acquired, some land remain undeveloped and the DDA could not protect its land pool with the result encroachment took place. These encroachments have been on such a massive scale with practically no prevention that a large part of habitants of Delhi reside in these colonies. The Government has come up now with schemes of regularization of these colonies.

Rohini Residential Scheme like other schemes is in the nature of a mini township. Such a mini township will contain all the essential features, i.e. residential areas, commercial areas, institutional areas. Thus, while there will be development of residential plots, there would also be development of commercial areas to take care of the needs of residents. These may be shopping arcades or there may be hotel sites, etc. Similarly there would be institutional requirements like for purpose of schools, hospitals, community facilities, etc. If land is allotted for all these purposes it cannot be said that the purpose of acquisition has disappeared or there is mala fide exercise of the power of acquisition. The DDA would spend large amount of monies on development of the area and, thus, to have a transparency auction is often the method, adopted for allotment, at least, with commercial areas while in case of residential areas there may be auction of plots or particular schemes under which plots and flats are allotted. It may be possible even to allot land to certain societies for their needs. Similarly hotel sites and commercial buildings are often auctioned.

We are, thus, of the view that the nature of allegations made in this writ petition cannot be said of such a nature as to suggest that there is a mala fide exercise of power or improper use of the land, which has been acquired.

.....

We are of the view that the petitioners cannot after such a

long period seek to rake up the issue of acquisition merely on the basis of some recent pronouncements by the Hon'ble Supreme Court even when they accepted the compensation qua acquisition of the land by neither challenging the acquisition proceedings nor the award but on the other hand were only interested in enhancement of compensation for which they have sought a reference. They have also recovered the compensation and for them now to say that they are willing to return that compensation after number of years and should be permitted to assail the acquisition proceedings would not, in our view, be the appropriate direction to be passed.

In view of these facts and circumstances, we are not inclined to entertain the petition seeking to challenge the acquisition proceedings both on grounds of delay and laches as also on account of the acquiescence and conduct of the petitioners qua the acquisition proceedings.

Dismissed.”

5. On 3<sup>rd</sup> February 2015 the Supreme Court of India passed the following orders in SLP (C) No. 17121/2013 (*Naresh Kumar v. Union of India*) and a batch of special leave petitions (SLPs), all of which were directed against the above order dated 17<sup>th</sup> April 2013 of the DB of this Court in W.P. (C) 2501/2013 and batch. The order reads as under:

“SLP (C) Nos. 17121, 33188 of 2013 & SLP (C) 17482, 13358 of 2014

Shri T. N. Singh and Dr. Surat Singh, learned counsels for the Petitioners in respective matters on instructions, seek permission of this Court to withdraw these petitions.

Permission sought is granted.

The special leave petitions are disposed of as withdrawn.

Contempt Petition (S) No. 319 of 2013 in SLP (C) 17121 of

2013

In view of the withdrawal of the special leave petition, nothing survives for consideration and decision in this contempt petition. The contempt petition is dismissed in terms of the signed order.”

6. Thus no liberty was granted to the Petitioners in the above matters to challenge the land acquisition proceedings afresh. The order dated 17<sup>th</sup> April 2013 passed by the DB of this Court in ***Naresh Kumar*** (*supra*) rejecting the challenge to the land acquisition proceedings *qua* the lands in village Barwala for the Rohini Residential Scheme attained finality.

7. A counter affidavit has been filed on behalf of the DDA. It is stated that the present petition is barred by delay and laches and ought to be dismissed as the Petitioner has approached the Court after 13 years from the passing of the impugned Award. In this respect, reference is made to the decision of the Supreme Court in ***Mahavir v. Union of India (2018) 3 SCC 588***. It is submitted that possession of the subject land was handed over to the DDA on 6<sup>th</sup> May 2010 for the development of the Rohini Residential Scheme. A copy of the possession proceedings has been annexed along with the affidavit. As regards compensation, it is submitted that the same was deposited with the L&B Department for an amount of Rs.219,35,05,048/- by Cheque Nos. 074382 and 339383 dated 9<sup>th</sup> September 2005 and an amount of Rs.83,00,00,000/- by Cheque No. 87369 dated 17<sup>th</sup> November 2006. It is further stated that the conditions under Section 24(2) of the 2013 Act have not been met and this provision cannot come to the aid of the Petitioners as possession of the land in question has already been taken and compensation paid to the majority of the

recorded owners. It is further stated that the Petitioners are claiming ownership of the subject land on the basis that their father, one Shri Inder Singh Yadav, had purchased the land in question by way of a sale deed dated 27<sup>th</sup> September 1985, however, no such sale deed was filed with the petition and the Petitioners have failed to establish any credible documents to prove their right, title or interest in the subject land.

8. 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 10<sup>th</sup> March 2015, 28<sup>th</sup> January 2016 and 18<sup>th</sup> 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 10<sup>th</sup> 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 18<sup>th</sup> 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 18<sup>th</sup> 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)

9. These directions were repeated in the remaining I.As which were disposed of on the same date i.e. 18<sup>th</sup> 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 to the DDA within ten days of the order dated 18<sup>th</sup> 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 continued to remain with them.

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



11. As regards the claim for compensation, the fact remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for relief. The claim for compensation is being made with reference to an Award that was passed on 5<sup>th</sup> August 2005. In *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 the Supreme Court 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.”

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 Petitioners 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 pending applications are also disposed of.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**JULY 05, 2019**

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