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

+ **W.P.(C) 8967/2017**

M/S LONG VIEW DEVELOPERS PVT. LTD. Petitioners

Through: Mr. M.P. Bhargava, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Mr. Rajesh Mahajan for DDA
Mr. Siddharth Panda for L&B/LAC

+ **W.P.(C) 8866/2017**

M/S LONG VIEW DEVELOPERS PVT. LTD. Petitioners

Through: Mr. M.P. Bhargava, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Mr. Arjun Pant for DDA
Mr. Siddharth Panda for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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11.04.2019

1. These two petitions are by the same Petitioner and arise out of a common set of facts. In both petitions the relief prayed for is identical for different partsof land located in the same area being Village Satbari, Tehsil Hauzkhas. These petitions are accordingly being disposed of by this common order.

9

They were nevertheless heard separately.

2. For the sake of convenience the facts of W.P.(C) 8967/2017 titled ***M/s Long View Developers Pvt. Ltd. v. DDA & Ors.*** are being discussed.

3. The prayers in the petition read as under:

“In the facts and circumstances hereinabove stated, the Petitioner most humbly pray that this Hon'ble Court may be pleased to;

(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 4 Bigha 16 Bisws of comprised in Khasra No. 1025, situated in revenue Estate of Village Satbari, Tehsil Hauz Khas, New Delhi now known as Farm No.H-1, Ansal Villa, Satbari, New Delhi, having lapsed and further quashing the impugned notification No. F.1(16)/80-L&B dated 25.11.1980 issued under section 4, Notification No.F.9(26)/85-L&B dated 27.05.1985 issued under Section 6 of the Land Acquisition Act, 1894 and the Award no. 14/87-88 with respect to 4 Bigha 16 Bisws of comprised in Khasra No.1025, situated in revenue Estate of Village Satbari, Tehsil Hauz Khas, New Delhi now known as Farm No.H-1, Ansal Villa, Satbari, New 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 not to disturb or hinder the possession and enjoyment of the Petitioner over 4 Bigha 16 Bisws of comprised in Khasra No. 1025, situated in revenue Estate of Village Satbari, Tehsil Hauz Khas, New Delhi now known as Farm No.H-1, Ansal Villa, Satbari, New Delhi.

(iii) pass any other or further order which this Hon'ble Court may

13

deem fit and proper in the interest of justice.”

4. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 27th May 1985. The impugned Award No. 14/87 was passed on 26th May 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

5. It is stated in the petition that the Petitioner purchased the property from the legal heirs of the predecessor-in-interest through their constituted attorney Mr. Tejinder Bhalla in 2006 through an Agreement to Sell (ATS) and General Power of Attorney (GPA) dated 8th May 2006. It is also stated that the impugned notifications were challenged in **Balak Ram Gupta v. Union of India (1989) 37 DLT 150 (DB)** whereby a Division Bench (DB) of this Court quashed the acquisition proceedings. It is also stated that the recorded owner of the property also challenged the acquisition proceedings in W.P.(C) No. 1043/1987 in which stay was granted by this court on 20th April 1987.

6. In the counter-affidavit filed on behalf of the LAC, it is submitted that a round of litigation took place regarding the current acquisition proceedings. It is stated that in the said award Khasra No. 1025(4-16) was not included because of the interim stay granted in W.P.(C) No. 247/1986 titled

Bhupender Kumar Modi & Ors. v. Union of India. Due to this fact, the possession of Khasra No. 1025(4-16) could not be taken. It is also submitted that the Petitioner is not the recorded owner. It is further submitted that the Petitioner purchased the subject land in 2006 which is almost 20 years after the Award was passed. The Petitioner is claiming title through a GPA and an ATS dated 8th May 2006 which are not valid title documents.

7. In the counter-affidavit filed by the DDA, it is submitted that physical possession of the Khasra No. 1025 has not been handed over to DDA by the LAC. It is submitted that the petition is barred by delay and laches. It is further submitted that the petitioners claim that their predecessors-in-interest were the recorded owners of the subject land at the time of notification but neither any title documents nor copy from revenue records to prove their title ownership in respect of the land have been attached.

8. No rejoinder has been filed by the Petitioner to the counter affidavit of the DDA or LAC. The facts in the companion writ petition are similar as is that stand of the Respondents. Only the khasra numbers are different.

9. The unconverted counter affidavits of the LAC and the DDA give rise to disputed questions of fact regarding the assertion by the Petitioners that they are entitled to compensation. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

10. 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.”

11. The above decision was re-affirmed 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 become 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*

14

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 on certain other issues but not on the question of petitions seeking declaration under Section 24 (2) of the 2013 Act being barred by laches. This legal position was explained by this Court recently in *Mool Chand v. Union of India 2019 (173) DRJ 595 DB*.

13. For the aforementioned reasons, the writ petitions are dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs. The interim order dated 27th February 2018 is hereby vacated.



S. MURALIDHAR, J.



I.S. MEHTA, J.

APRIL 11, 2019

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