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

+ **W.P.(C) 13057/2018**

KANTA CHADHA Petitioner
Through: Mr. Pushp Saini, Advocate

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Chiranjeev Kumar,
Advocate for Respondent No. 1, Union of
India.
Mr. Yeeshu Jain along with Ms. Jyoti
Tyagi, Advocates for LAC/L&B.
Mr. Arun Birbal, Advocate for DDA

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
17.07.2019

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

“i. A writ in the nature of Mandamus directing the respondents to release the plot/land purchased by the father of the petitioner from the acquisition process after declaring the acquisition process initiated pursuant to notification No. F 8 (31)/78 & L& B dated 24.07.1978 (Annexure P-2) U/s 4 of the Land Acquisition Act, 1894 as having lapsed.

ii. A writ, order or direction especially in the nature of mandamus directing the respondent authorities to issue

no objection certificate in respect of the plot/land in question in favour of the Petitioner.”

2. The background facts are that the land in question i.e. 10 *Biswas* in Khasra No. 402/385, 386 in village Gharonda, *Neem Ka Bangar, Illaqa* Shahdara, Delhi (hereinafter, ‘subject land’) was notified [No. F-A (31)/78/L] under Sections 4 and 6 of the Land Acquisition Act, 1894 (‘LAA’) on 24th July, 1978. It is stated that in respect of some of the lands in question the Land Acquisition Collector passed Award No. 23/50, 28/50 and a supplementary Award No. 6-C-71-72 (SUPPL) on 31st March, 1977.

3. As far as the Petitioner is concerned, it is stated that the Petitioner is one of the legal heirs of Late Shri Dhanpat Singh, who had in turn purchased the subject land from “M/s Deepak Land and Housing Co-operation” by way of a registered sale deed dated 28th July, 1966. It is the case of the Petitioner that possession of the subject land has not been taken and continues to be with the Petitioner and that no compensation has been paid to him. It is also averred in the petition that the Petitioner’s mother Smt. Krishna Wati filed a civil suit 1172/2006 in the Civil Court at Karkardooma Courts, New Delhi seeking a declaration that she is the owner in possession of the suit property and to restrain the DDA from interfering with the peaceful possession of the subject. It is stated that the civil suit was dismissed by the Civil Court by way of a judgment dated 31st August, 2016 holding that the jurisdiction of the civil court was barred as the land

had been acquired under the LAA. Thereafter, the petition straightaway refers to the passage of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter, '2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing under Section 24 (2) thereof.

4. Although notice was issued in this petition on 4th December 2018, the LAC stated that no counter affidavit could be filed as the Petitioner had not provided proper details of the land in question. It is recorded thus in the order dated 11th July 2019 of the Registrar:

“Learned counsel appearing for respondent Nos.3 and 4 submits that the petitioner has neither mentioned the details and location of the land which is the subject matter of the writ petition nor has she furnished details of the notifications under which the land was acquired. Hence, learned counsel submits that they are unable to file their response to the writ petition. Learned counsel requests that the petitioner be directed to furnish the necessary details.

Since there is a date already fixed in the matter, list the matter before the Hon'ble Court on the date already fixed i.e. 17.07.2019.

In the meanwhile, let the petitioner furnish the relevant details to the learned counsel for respondent Nos.3 and 4.”

5. However, those details have not been furnished to the Respondents till date by the Petitioner. An additional affidavit of the Petitioner was

handed over in the Court today by learned counsel for the Petitioner. However, that merely repeats the averments in the writ petition which have already been responded to by the LAC. It does not carry the case of the Petitioner forward any further.

6. The fact remains that the Petitioner has no satisfactory explanation to offer for the inordinate delay in approaching even the civil Court for relief. On the Petitioner's own showing the predecessor in interest approached the civil court first in 1991 for compensation. However that suit was dismissed on the ground that compensation had not been deposited in the Court till then. That order attained finality. Then for 15 years nothing happened. The next proceeding in the civil court was a challenge to the land acquisition proceedings by the Petitioner's mother in 2006 i.e. nearly three decades after the Section 4 LAA notification. There is thus no satisfactory explanation for the inaction on the part of the Petitioner to approach the Court for relief within reasonable time.

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:

“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. 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* (2014) 3 SCC 183 regarding the tendering of compensation, and 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 its decision in *Mool Chand v. Union of India* 2019 (173) DRJ 595 DB.

10. For the aforementioned reasons, the writ petition is dismissed on the ground of laches, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 17, 2019
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