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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9491/2017

MURTI DEVI AND ORS

..... Petitioners

Through: Mr. B.P Gupta and Mr. Rajesh Gupta,
Advocates.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.

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W.P.(C) 9495/2017

SH. UMED SINGH

..... Petitioner

Through: Mr. B.P Gupta and Mr. Rajesh Gupta,
Advocates.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Siddharth Panda, Advocate for
LAC/L&B/R-1 and R-2.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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19.02.2019

SANJEEV NARULA, J.:

CM APPL. 7900/2019 in W.P.(C) 9495/2017 (delay)

1. For the reasons stated in the application, the delay in filing the counter affidavit is condoned and the same is taken on record. Accordingly, the

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application is disposed of.

W.P.(C) 9491/2017 & W.P.(C) 9495/2017

2. The prayers in above mentioned writ petitions reads as under:

“a) issue a writ of mandamus or any other appropriate writ, order or direction for quashing/declaring all the acquisition proceedings initiated under the Land Acquisition Act, 1894 and resulting in Award No.23/1987-88 of Village Maidangarhi, New Delhi in respect of the land bearing Khasra No.218 min (0-05) situated in the revenue estate of Village Maidangarhi, New Delhi, stands lapsed under Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

b) directions may also be issued to the respondents to exercise their liberty granted U/s 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for initiation of the acquisition proceedings afresh and also make it clear that in case no fresh acquisition proceedings are initiated within reasonable time from the date by issuing a notification U/s 11 of the Act, the respondents shall return the physical possession of the land to the petitioner;

c) such other or further direction/order be passed as may be necessary in the interest of justice in favour of the petitioner.”

3. The facts of the above mentioned writ petitions are identical except for the fact that in writ petition bearing No. 9491/2017, the Petitioners are having 2/3rd bhumidari rights in Khasra No. 218 min (0-05) and the Petitioners in writ petition No. 9495/2017 are having 1/3rd bhumidari rights in Khasra No. 218 min (0-05).

4. In the present case, notification under Section 4 of the Land Acquisition

Act, 1894 ('LAA') was issued on 25th November, 1980 for "planned development of Delhi" followed by declaration under Section 6 of the LAA on 18th June 1985. Thereafter an Award bearing No. 23/1987-88 was rendered on 16th June, 1987.

5. Counsel for the Petitioners submits that, with respect to Khasra No. 218 min (0-5) of village Maidangarhi, New Delhi (hereinafter "subject land") possession has been taken over by Respondent No. 1 on 28th August 1987 and has been transferred to Respondent No. 2. However, compensation has neither been tendered nor paid* to the Petitioners till date. Thus, the Petitioners are entitled for a declaration under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as "the 2013 Act"), to the effect that the acquisition proceedings in respect of the subject land stand lapsed.

6. On the contrary, learned counsel for the LAC in its counter affidavit submitted that in the present case, the possession of the land of the petitioner was taken over by Respondent No. 1 and was handed over to the beneficiary department on 16th July 1987 and compensation in respect of Petitioner's land has not been paid to the recorded owners as the award itself states that no compensation has been assessed as the land in question falls in "Rasta". The relevant part of the counter affidavit reads as under:

"8. That in the present case, the possession of the land of the petitioner was taken over and handed over to the beneficiary department 16.07.1987 and compensation with respect to the subject land could not be paid to the recorded owners as in the

award itself no compensation has been assessed as the land in question falls in "Rasta". It is pertinent to mention here that the recorded owners have accepted the award thus the question of payment of compensation does not arise. As far as the possession of the land in question is concerned, it is admitted by the petitioners that the possession of the land has already been taken over by the Government. The relevant portion of the award is annexed herewith and marked as ANNEXURE RI/A.

10. That it is humbly submitted that in the present case provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not be applicable as the possession of land in question has already been taken over by the Government and handed over to the beneficiary department and compensation is not required to be paid as no compensation was assessed by the Land Acquisition Collector in the award. Thus, the land is free from all encumbrances whatsoever."

7. No rejoinder has been filed by the Petitioners to contradict the assertions of the LAC. It is also pertinent to note that the petition is totally devoid of details of any action taken by the petitioners to challenge the award, which assessed that no compensation was due and payable with respect to the subject land on account of the same being part of the "Raasta". Therefore as far as the petitioners are concerned, the acquisition proceedings became final by virtue of failure to challenge the award dated 16th June 1987. The present petitions filed after almost three decades from the date of the award are thus clearly barred on the aspect of delay and laches.

8. There is no explanation whatsoever offered in the petitions for the inordinate delay in coming forward to seek relief under Section 24 (2) of the 2013 Act. The petition is obviously barred by laches.

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9. In *Mahavir v. Union of India* (2018) 3 SCC 588, the Supreme Court held 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.”

10. The aforesaid Judgment has been considered by the Supreme Court in the decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“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).

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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/negatived, 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. This court has on the basis of its decision dated 17th January 2019 in W.P.(C) 4528 of 2015 (*Mool Chand v. Union of India*), dismissed similar petitions seeking a declaration under Section 24(2) of the 2013 Act, on the ground of delay and laches.

12. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the present petitions are dismissed both on the ground of delay and laches as well as on merits.


SANJEEV NARULA, J

S.MURALIDHAR, J

FEBRUARY 19, 2019

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