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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9610/2017**

ROOP SINGH & ORS.

.... Petitioners

Through: Mr. Satish Kumar,
Advocate.

versus

LAND ACQUISITION COLLECTOR & ORS.

.... Respondents

Through: Mr. Yeeshu Jain along with
Ms. Jyoti Tyagi, Advocates for LAC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
26.07.2019

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1. The prayer in the present petition reads as under:

“Issue a writ of certiorari and/or any other writ order or direction of the similar nature declaring the entire acquisition with respect to the land Khasra no 32/9(3-10), 11(2-12), 10(4-16), 12(0-14) 19(4-18), and 32/12 min (5-2) to the extent of 1/8th Undivided share of petitioner no 1 and the predecessor of interest of respondent no 2 to 6 namely, Ram Prasad and Khasra no. 32/12 min (5-2) to the extent of 1/4th Undivided share of the predecessor interest of respondent no 2 to 6, of the land situated within the revenue estate of village Saidabad, Dist South East, New Delhi, is deemed to have lapsed and further quashing the impugned Notification no. F.4 (9)/64 L&H dated 6.4.1964 Notification NO. F.4 (9)/64- L&H dated 7.12.66 issued under section 6 of the Land Acquisition Act and the award no.29/76 L&H dated 6.4.1964 Notification NO. F.4 (9)/64- L&H dated 7.12.66 issued under section 6 of the Land Acquisition Act and the award no.29/76-77 Supplementary of Village -Saidabad , New Delhi.”

2. The background facts are that the land in question i.e. $1/8^{\text{th}}$ share of land bearing Khasra Nos. 32/9(3-10), 11(2-12), 10(4-16), 12(0-14) 19(4-18), and 32/12 min (5-2) and $1/4^{\text{th}}$ share of land bearing Khasra No. 32/12 min (5-2) in the revenue estate of Village Saidabad, Dist. South East, New Delhi (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 6th April, 1964 for the public purpose of "planned development of Delhi". This was followed by a declaration under Section 6 of the LAA dated 7th December, 1966. The Land Acquisition Collector ('LAC') passed an award being Supplementary Award No. 29/76-77.

3. As far as the Petitioners are concerned, it is stated in the petition that the Petitioner No. 1 and the predecessor-in-interest of Petitioner No. 2-6 were each having $1/8^{\text{th}}$ share in the subject land bearing Khasra Nos. 32/9(3-10), 11(2-12), 10(4-16), 12 (0-14) 19(4-18), and 32/12 min (5-2). It is further stated that the predecessor-in-interest of Petitioner No. 2-6 had a $1/4^{\text{th}}$ share in the portion of the subject land bearing Khasra No. 32/12 min (5-2). It is averred that the predecessor-in-interest died intestate leaving behind Petitioner No. 2-6 as his only legal heirs. It is averred in the petition that possession of the land has not been taken over. It is also averred that compensation in respect of the acquired land has not been paid or tendered to the Petitioners or their predecessor-in-interest. It is contended that the Petitioners are entitled to a declaration of deemed lapsing under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

4. A counter affidavit has been filed on behalf of the LAC, where it is averred that possession of Khasra Nos. 32/9(3-10), 19 (04-18) and 32/12 min (5-02) was taken on 22nd September, 1986 and possession of land comprised in Khasra Nos. 10(4-16), 11(2-12), 12 min (0-14), was taken on 9th January, 1988. As regards compensation, it is averred that despite being in the know about possession being taken, no steps were taken by the Petitioners “to collect the compensation amount from the acquiring agency”.

5. No rejoinder has been filed by the Petitioners to the counter affidavit of the LAC. Be that as it may, the assertion of the Petitioners that they continue to be in possession of the subject land and have still not been compensation, gives rise to disputed questions of fact, which cannot be examined in the present petition. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for relief.

6. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412* a three Judge Bench of the Supreme Court of India 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.”

7. 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)*.

8. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 31st October, 2017 as confirmed on 6th February, 2018 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 26, 2019

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