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

+ **W.P.(C) 9191/2015**

SMT. RISALO

..... Petitioner

Through: Mr. N.S, Vasisht, Mr. M.P. Bhargava,
Advocate

versus

UNION OF INDIA& ORS.

..... Respondents

Through: Mr. Siddharth Panda for L&B/LAC
Ms. Mrinalini Sen Gupta, Advocate for
DDA
Mr. Tudshar Rao, Advcoate for UOI

With

+ **W.P.(C) 9610/2015**

SMT. RISALO

..... Petitioner

Through: Mr. N.S, Vasisht, Mr. M.P. Bhargava,
Advocate

versus

UNION OF INDIA& ORS.

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for L&B/LAC
Mr. Pawan Mathur, Advocate for DDA
Mr. Prashanta Verma, Advocate for UOI

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

11.02.2019

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1. The prayers in both these petitions filed through Smt. Anita Mathur, the General Power of Attorney (GPA) holder are identical and read as under:

“(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 1 Bigha out of her 1/4th share in total measuring 23 Bigha 13 Biswas land of the Petitioner's comprised in Khasra Nos.760/596 (18-15) and 926/759/596(4-18), situated in revenue Estate of Village Maidan Garhi, NCT Delhi having lapsed and further quashing the impugned notification No. F.9(16)/80-L&B dated 25.11.1980 issued under section 4, Notification No.F.9(28)/85-L&B dated 18.06.1985 issued under Section 6 of the Land Acquisition Act, 1894 and the Award no.23/87-88 with respect to 1 Bigha out of her 1/4th share in total measuring 23 Bigha 13 Biswas land of the Petitioner's comprised in Khasra Nos.760/596(18-15) and 926/759/596 (4-18), situated in revenue Estate of Village Maidan Garhi, NCT 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 1 Bigha out of her 1/4th share in total measuring 23 Bigha 13 Biswas land of the Petitioner's comprised in Khasra Nos.760/596 (18-15) and 926/759/596 (4-18), situated in revenue Estate of Village Maidan Garhi, NCT Delhi.

iii) pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. 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 18th June 1985. The impugned Award No. 14/1987-88 was passed on 17th June 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief. Mr. Vasisht insists that the coming into force of the 2013 Act with effect from 1st January 2014

provided a cause of action to the Petitioner to file the petition.

3. There is a separate counter-affidavit filed on behalf of the LAC in each of the petitions. In the counter affidavit filed by the LAC in W.P. (C) 9191 of 2015, it is submitted that the physical possession of Khasra No. 759/596(18-15) & 926/759/596 (4-18) was taken and handed over to the beneficiary department on 16th July 1987. It is also submitted that part payment of the subject land was paid to the Petitioner amounting to Rs. 4,09,808.60/- and remaining amount of Rs. 176541.14/- was sent to the RD in the name of Ramphal. In the counter affidavit filed by the LAC in W.P. (C) 9610 of 2015, it is maintained that physical possession was taken on 16th July 1987 and handed over to the DDA. As regards the compensation, it is stated that the amount determined to be paid to the Petitioner was sent to the RD. In both petitions, the locus standi of the GPA holder to file the petitions has been questioned as the transfers that took place in 1992 after the notification under Section 4 LAA was issued and the Award was clearly illegal. Ms. Jyoti Tyagi, learned counsel for the LAC clarifies that the second counter affidavit filed in W.P. (C) 9610 of 2015 should be taken to reflect the correct position since it is based on the records available with the LAC.

4. In the counter-affidavits filed by the DDA in both petitions, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the land bearing Khasra No.759/596(18-15) & 926/759/596 (4-18) was acquired for public purpose for the “planned development of Delhi”. The physical possession of this land was handed over to the DDA by LAC on 16th July 1987. It is submitted that an amount of Rs. 100 Crores (Rupees One Hundred Crores) was remitted by the Central Government as the compensation for acquisition of lands in 13 South Delhi villages including Village Maidangarhi.

5. No rejoinder has been filed to the counter-affidavit of the DDA or the LAC in either petition. Consequently, the assertions of the Petitioner of continuing to remain in possession and regarding the compensation not being tendered to the recorded owner give rise to disputed questions of fact which cannot possibly be examined in these petitions.

6. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

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 observations have been reiterated in the judgment of the three Judge Bench 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 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. The above observations have been followed by this Court in several orders including the order dated 17th January, 2019 in WP(C) No. 4528/2015 (*Mool Chand v. Union of India*) and similar petitions have been dismissed on the ground of laches.

10. The plea of Mr. Vasisht that the cause of action arose only on 1st January 2014 when the 2013 Act came into force, and therefore the petition is not barred by laches, is without merit considering that the Award in the present case was passed on 17th June 1987 and possession was taken on 16th July 1987, nearly three decades before the present petitions were filed. No action was taken by the Petitioner to question those proceedings till the filing of these petitions. The observations of the Supreme Court in para 130 of the decision in *Indore Development Authority v. Shailendra (supra)* to the effect that “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” will squarely apply in the present case.

11. For the aforementioned reasons, the writ petition is dismissed both on the

ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

12. The interim order passed by this court on 28th September 2015 which stood confirmed on 2nd November 2017 in W.P. (C) 9191 of 2015, and the interim order dated 9th October 2015 which stood confirmed on 2nd November 2017 in W.P. (C) 9610 of 2015, hereby stand vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 11, 2019