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

+ **W.P.(C) 10222/2017**

TEK CHAND

..... Petitioner

Through: Mr. N.M. Popli, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms.Barnali Bansal for GNCTD.
Mr. Vivekanand Mishra, Senior
Panel counsel for UOI.
Mr. Arjun Pant for DDA
Mr. Sankay Kumar Pathak, Mrs.
K.K. Kiran Pathak, Mr. Sunil
Kumar Jha and Mr. M.S. Akhtar
for L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
30.04.2019

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1. The prayers in the petition read as under:

“a) Issue a writ in the nature of certiorari or any other appropriate writ or direction and to quash the acquisition proceeding i.e. section 4 notification dt. 23.1.1965, Section-6 declaration dt.1.12.1966,/7.12.1966 qua land shown in Khasra No.399 (4-14) ,Khasra No.398/1 (0-7) ,Khasra No.437 (0-6) ,Khasra No.456 (0-10) since no award is made within a period of 2 years after 1984 amendment in the L.A Act 1894or under 25 of Act no.30/13.

b) Issue writ in the nature of certiorari or any other appropriate writ or direction and to quash acquisition proceeding initiated on the basis of Section 4 notification 23.1.1965, declaration 1.12.1966 / 7.12.1966 qua land shown in Khasra No.399/1 min (4-6) 399/2 min (0-8) ,385(4-16) , 386 /2 (4-9) Khasra No.404 (4-16)

c) Issue a writ in the nature of mandamus or any other appropriate writ to respondents and to demarcate the land to the extent 2 Bighas 14 Biswa purported to have been shown in Khasra No.399/3 and to quash acquisition proceeding No.405/2 (2-8) in view of Section 24(2) of act No.30/2013.

d) Issue a writ in the nature of mandamus or any other writ or direction to respondent to hand over physical vacant possession of ail lands shown in above Khasra to the petitioner and respondent No.8 and 9 in joint or hand over physical vacant possession of land shown in all Kharas qua the entitlement of the petitioner i.e. one third share.

e) Issue any other appropriate writ or directions to respondents and to pass such orders as may, be deemed fit and proper in the circumstances of the case.

f) and pass any other order / orders as may be deemed fit and proper in the facts and circumstances of the case.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd January 1963, followed by declaration under Section 6 of the LAA on 22nd January 1966. The impugned Award No. 34/1986-87 was passed on 19th September 1966.

3. It is stated that the father of the Petitioner was the recorded owner of the lands in Khasra No.74 (0-5), 75 (4-13), 86/1 (2-8), 55 (3-16), 57 (4-16), 65/1 (2-8), 66 (4-16), 918 (4-16), 385 (4-16), 386/2 (4-9), 398/1 (0-7), 399 (4-14) to 404(4-16) Khasra no. 399 (4-16), 399/1 min (4-6), 399/2min ,(0-8) 399/3 (2-14), 405/2 (2-8), 437 (0-6) Khasra no. 456 (0-10) situated in revenue estate Village Mahipalpur, Mehrauli New Delhi. It is stated in Para 6 of the petition that the land in Khasra No. 399/1 was acquired under Award no. 242/86-87 and land in Khasra No. 385,386/2,404,405/2 was acquired under Award no. 34/86-87. However,

no compensation was paid. The land in Khasra No. 399/2 was acquired under Award No. 2182/E. In Award no. 2182/B it was stated that Khasra Nos. 385, 386/2, 399 to 404, 405/2, 852/1 were not in the present acquisition.

4. The father of the Petitioner filed 3 writ Petitions in this court being W.P.(C) 1324/1983, W.P.(C) 421/1983 and CWP No. 1765/83. On 25th July 2007 W.P.(C) 1324/83 was dismissed and on 26th May 2009 W.P.(C) 421/1984 were dismissed stating that the petitions were covered by the judgment passed by the Supreme Court in *Murari v. Union of India (1997) 1 SCC 15*.

5. In the counter-affidavit filed on behalf of the LAC, it is submitted that the Petitioner claims that his father was the recorded owner however he has not produced any documents showing interest or title in the subject lands. It is further stated that the petition is further liable to be dismissed on ground of delay and laches as Award No. 34/1986-87 was made on 19th September 1986, Award No. 242/86-87 was passed on 22nd September 1986 and Award No. 2182E was made on 18th April 1983.

6. With respect to possession and compensation the following table has been prepared by the LAC showing the status of the acquired lands.

Khasra No.	Award No.	Status of possession	Status of compensation
385(4-16), 386/2(4-09), 404(4-16), 405/2 (2-08)	34/86-87	Possession not taken due to stay in WPC No.	Compensation was tendered vide notices under Section

		1386/83 dated 08.05.1997	12(2) & 31(1) of LA Act 1894, sent to the recorded owner/ interested persons. When they did not appear to collect the compensation it was sent to RD
399/1(4- 06)	242/86-87	Possession taken and handed over to the DDA through LAC on 23.09.1986	Compensation was tendered vide notices under Section 12(2) & 31(1) of LA Act 1894, sent to the recorded owner/ interested persons- Sh. Prithvi Singh S/o Fakira. When they did not appear to collect the

			compensation it was sent to RD
399/2	2182-E (Supplementary)	Possession report not available in the Award File.	Compensation amount was sent to the RD on 06.02.1984
398/1	Has not been acquired		

7. In the counter-affidavit filed by the DDA, 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. 399/1 min(4-6) and 385(4-16) was handed over to the DDA on 23rd September 1986 and 23rd December 2002. It is further stated that an amount of Rs. 2,00,00,000/- was paid vide Cheque No. 0018462 dated 27th January 1986 and an amount of Rs. 5,00,00,000/- was paid vide cheque No. 0021239 dated 26th May 1986 to Land and Building. Govt. of NCT of Delhi to pay the compensation amount through revolving fund

8. No rejoinder has been filed by the Petitioner to the counter affidavits of the LAC or the DDA.

9. In any event, the assertion by the Petitioner that he continues to remain in possession of the land in question and that he is entitled to compensation gives rise to disputed questions of fact which cannot be examined in these proceedings. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

10. On the aspect of laches, *Indore Development Authority v. Shailendra (2018) 3 SCC 412* it was observed by the Supreme Court 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 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 Municipal Corporation (supra)*, and this Court never, even for a moment, intended that such cases would be received or entertained by the courts.”

11. 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*.

12. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits. The interim order dated 17th

November 2017 made absolute on 2nd May 2018 is hereby vacated.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 30, 2019
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