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

+ **W.P.(C) 9924/2017**

SAEED LAAM & ORS.

..... Petitioners

Through: Mr. M.P. Bhargava, Mr. Anuroop,
Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rajesh Kumar, Senior Panel
counsel for UOI.
Mr. Arjun Pant and Mr. Karan Sharma
for DDA.
Mr. Yeeshu Jain, Standing Counsel and
Ms. Jyoti Tyagi for L&B/LAC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
28.02.2019

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1. The prayer in the petition reads as under:

“It is, therefore, respectfully prayed that this Hon Court may be pleased to issue a writ / order / direction in the nature of certiorari calling for the records of the acquisition proceedings with respect to the lands comprised in khasra number 219 measuring 6 bigha 16 biswas situated in the revenue estate of village Jasola, Delhi in which land the bhumidari of the petitioners is to the extent of 4 bigha 01 biswas, acquired vide Award No. 04/1997-98 dated 05.12.1997 and further to pass appropriate writ, order or directions declaring the acquisition proceedings to have lapsed and have become inoperative under sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 as no compensation has been offered, tendered or paid to the petitioner with respect to 4 bigha 01 biswa land out of the above stated lands.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 6th April 1964, followed by declaration under Section 6 of the LAA on 7th December 1966. The impugned Award No. 01/1997-98 was passed on 5th December 1997. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. In the counter-affidavit filed on behalf of the LAC, it is submitted that the possession of Khasra No. 219 (6-16) was taken on 21st May 1998(1-16) and 10th July 1998(5-00) and handed over to the DDA on the spot. It is stated that the Petitioner is one of the recorded owners of the subject land. "The recorded owners have been shown as Saeed Alam, Mohd. Alam, Shadi Adal, MasoodAlam, Abdul Khalid, Shaane Alam, Javed Alam, Abdul Majeed having different shares." On the aspect of compensation, it is submitted that the compensation has been partly paid. It is stated that the other recorded owners never applied for compensation. The relevant portion is reproduced hereinbelow:

"It is submitted that as per Naksha Muntazamin, the compensation for (1-01) of Rs. 59,826/- was paid to Abdul Khalid S/o Mohd.Idrish on 27.7.2007 since the possession of entire land was taken in the manner, stated supra and the said claimant applied for release of compensation. The compensation for remaining land could not be paid as per Naksha Muntazamin and Statement -A is not available."

4. The rejoinder filed by the Petitioners to the counter affidavit of LAC merely reiterates the averments in the petition. It is stated that the LAC had only taken 'paper possession' in 1998 and has not taken the 'actual physical possession' till date. On the aspect of compensation, the Petitioners claim that they have not received any compensation.

5. In any event, the assertion by the Petitioners that they continue to remain in possession of the land in question or that compensation has not been tendered gives rise to disputed questions of fact which cannot possibly be examined in these proceedings. The fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

6. 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.”

7. 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.”

8. The above decision has been affirmed by the judgment of a three Judge Bench of the Supreme Court in *Indore Development Authority v. Shailendra (2018) 3 SCC 412*. The above decisions 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.

9. 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. The interim order dated 8th February 2018 stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 28, 2019

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