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

+ **W.P.(C) 11235/2017**

UMA SHARMA AND ORS. Petitioners

Through: Mr. Rupesh Kumar, Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Pratyush Miglani & Ms. Smriti
Varma, Advocates for Respondent/UOI

Mr. Arun Birbal, Advocate for Respondent/DDA

Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar Jha &

Mr. M. S. Akhtar, Advocates for Respondent/LAC/
L & B

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

18.01.2019

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

“A. pass directions to issue a writ, order or direction in the nature of mandamus commanding the respondents more specifically the respondent No.1 to pay compensation with rehabilitation to the petitioners as per the provisions of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 in respect to 1/5th share in land in Khasra No.40 measuring 4 Bigha 16 Biswas totalling 1/5th share of 4 Bigha 16 Biswas land at Village Molarband, Delhi.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act (‘LAA’) was issued on 6th April, 1964 followed

by declaration under Section 6 of the LAA on 15th June, 1965. This was followed by the Award No. 1934-D/81-82 passed way back on 19th October 1981.

3. In the petition itself, it is stated that on 22nd September, 1997 possession of the land in question was taken by the Respondents. The Petitioners have themselves enclosed copy of the *Kabza Karyawahi* along with translation. It is stated that the Petitioners have made several visits for payment of compensation and ultimately made a representation in September, 2017.

4. In sum and substance the Petitioners are seeking compensation for the land that has been taken acquired under the LAA but want the compensation to be paid under The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

5. In response to the petition, the Land Acquisition Collector (South East) has filed a counter affidavit in which *inter-alia* a preliminary objection is taken that the petition should be dismissed on the ground of laches since the Award under the LAA was passed way back on 19th October, 1981 itself. On merits, it is stated that once the Petitioners came to know of the passing of the Award and lost possession of their land, they should have approached the LAC for the compensation amount. It is further stated in para 8 as under:

“So far as compensation amount is concerned, it is humbly submitted that as per Statement "A" compensation amount for

Shumar No.48 to 54 was credited in Revenue Deposit on 30.01.1982. As per Naksha Mutzamin Owner at:-(1) Shumar No.48 Shadi Ram S/o Mangat Ram, Share 1/2, (2) Shumar No.49 Balbir Singh S/o Mangat Ram, Share 1/7, (3) Shumar No.50 Raghbir Singh S/o Mangat Ram, Share 1/7, (4) Shumar No.51 Bhupender S/o Mangat Ram, Share 1/7, (5) Shumar No.52 Roop Chand S/o Mangat Ram, Share 1/7, (6) Shumar No.53 Sant Kumar S/o Mangat Ram, Share 1/7, (7) Shumar No.54 Hari Prakash S/o Mangat Ram, Share 1/7, aforesaid khasra Nos.”

6. Reference is made to the decision in *Indore Development Authority vs. Shailendra (2018) 3 SCC 412* to contend that deposit in the RD would tantamount to tendering of compensation.

7. Although the counter affidavit has been filed on 3rd October, 2018 till date no rejoinder has been filed.

8. The petition is clearly barred by laches with the Award having been made way back on 19th October, 1981 and possession having been taken over admittedly on 22nd September, 1997 itself. For more than three decades after the passing of the Award, no steps appear to have been taken by the Petitioners till September 2017 for recovering the compensation.

9. In *Mahavir vs. 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.”

10. In *Indore Development Authority v. Shailendra* (*supra*) while approving the above observations by the three Judge Bench held 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 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/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.”

11. Consequently, the petition is dismissed on the ground of laches.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 18, 2019

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