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

+ **W.P.(C) 10132/2015 & CM APPL. 24937/2015**

SRI CHAND AND ORS.

.... Petitioners

Through: Ms. Jyoti Kataria Bajaj, Advocate

versus

UNION OF INDIA AND ORS.

.... Respondents

Through: Mr. Siddharth Panda, Advocate
for LAC/L&B.

**CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH**

**ORDER
14.08.2019**

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1. The prayers in the present petition 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 (1000 sq. yds.) land of the Petitioners comprised in Khasra No. 922/594, 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 (1000 sq. yds.) land of the Petitioners' comprised in Khasra No.925/707/595, 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 land of the Petitioners' comprised in Khasra No.925/707/595, situated in revenue Estate of Village Maidan Garhi, NCT Delhi.”

2. The background facts are that the lands in question i.e. 1 *Bigha* in Khasra No. No.925/707/595 situated in the revenue estate of Village Maidan Garhi (hereafter, ‘subject land’), was notified under Section 4 of the Land Acquisition Act on 25th November, 1980. This was followed by a declaration under Section 6 dated 18th June, 1985. The Land Acquisition Collector passed an award being Award No. 23-87/88 on 17th June, 1987.

3. As far as the Petitioners are concerned, it is stated that the Petitioners are the duly recorded owners of the subject land. In order to demonstrate the same, a copy of the *Khasra Girdawari* for the year 2007-08 has been annexed with the petition. It is stated that the present petition is being filed through Mr. Ravi Malhotra, in whose favour the Petitioners have executed a General Power of Attorney (‘GPA’) dated 3rd July, 2005.

4. It is stated in the petition that “no substantial hearing under Section 5-A” of the LAA was given by the authorities. It is averred that the Petitioners have been continual peaceful possession of the subject land and that at no point has their possession been disturbed. It is also averred that no compensation was paid to the Petitioners or deposited in the Court under LAA Section 31 (2). It is stated that the impugned land acquisition

proceedings had been challenged earlier before this Court in W.P.(C) 1639/1985 [*Balak Ram Gupta v. Union of India*] and that a Division Bench of this Court had quashed the land acquisition proceedings on the ground that the hearing under LAA Section 5-A had been conducted by one Collector and the report had been prepared by another. In this context, reference has been made to the decision of the Supreme Court in *Shiv Raj v. Union of India*, whereby the Supreme Court has upheld the decision of this Court in *Balak Ram Gupta v. Union of India*.

5. The petition also alludes to the decision in *Abhey Ram v. Union of India (1997) 5 SCC 421* to contend that the relief rendered by way of this Court's judgment in *Balak Ram Gupta v. Union of India* would only be available to the Petitioners therein. Thereafter, the petition straightaway refers to the enactment of the Right to Fair Compensation and Transparency Relief, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioners' entitlement to a declaration of deemed lapsing of the acquisition proceedings under Section 24 (2) on the ground that neither has possession been taken nor compensation paid.

6. Reference has been made to the decision of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183*. It is contended by the Petitioners that the dictum in the said judgment squarely applies in the facts and circumstances.

7. Counter affidavits have been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is stated that possession of the subject

land was taken and handed over to the beneficiary department on 16th July, 1987. It is further stated that the present petition has been filed through a GPA holder, where the GPA itself pertains only to Khasra No. 595/707 and not to Khasra No. 925/707/595, the latter being the relevant Khasra number. As regards compensation, a table with details of the payment i.e. recorded owners, amounts, dates and the corresponding cheque nos. has been set out in the counter affidavit.

8. It is further stated that the impugned notifications and Award was challenged by interested persons by way of writ petitions before this Court, in which the Court granted interim protection to the Petitioners. It is stated that in 2005 the writ petition of the Petitioner, among others, was dismissed and the validity of the acquisition proceedings upheld. It is stated that the appeal against the judgment dismissing the foregoing petitions before the Supreme Court came to be dismissed in ***Om Prakash v. Union of India (2010) 4 SCC 17.***

9. In the counter affidavit of the DDA, it is stated that the acquisition proceedings have become barred due to *res judicata* inasmuch as this Court has delivered a judgment ***Balak Ram Gupta v. Union of India*** quashing the impugned award, but clarifying that its judgment was *in personam* and not *in rem*. It is accordingly stated that the Petitioners cannot avail the benefit of the aforesaid judgment.

10. As regards compensation, it is averred that the status of thereof can be confirmed only by the LAC/L&B Departments. In this regard, it is further

stated that the Central Government had remitted a sum of Rs.100 crores to the L&B Department for the purpose of compensating landowners in 13 acquired villages, which included Maidan Garhi. In respect of physical possession, it is stated that possession of the land in Khasra No. 707/595 (6-05) has been handed over to the DDA by the LAC/L&B Department on 16th July, 1987.

11. On 21st February, 2018 the DDA filed an additional affidavit, setting out details of possession and compensation in respect of the land bearing Khasra No. 707/595 (6-05), in Village Maidan Garhi. Specifically, it is stated there that physical possession of the said land was handed over to the DDA by the LAC on 16th July, 1987. It is further stated that the said land is now a part of the Tilpat Belly Biodiversity Park. As regards compensation, it is stated that compensation was taken by the recorded owners Siri Chand, Narain Singh, Ran Singh, Umed Singh, Ishwar Singh, Chhatru Singh, Ram Karan and Hari Ram. The details of the dates of payment and the corresponding cheque nos. have also been set out.

12. No rejoinder has been filed by the Petitioners to either of the counter affidavits. Be that as it may, the assertion of the Petitioners that the possession of the subject land has not been taken and continues to be with them and that they have not been paid compensation, raises disputed questions of fact and cannot be examined in the present petition.

13. The fact also remains that there is no explanation whatsoever for the inordinate delay in approaching the Court for relief. 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.”

14. 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).

15. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 2nd November, 2015 stands hereby vacated. The application is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 14, 2019
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