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

+ **W.P.(C) 10201/2015**

GURMEET SINGH GREWAL & ORS

..... Petitioners

Through: Mr. M.P. Bhargava, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Chiranjeev Kumar, Advocate
with Mr. Mukesh Sachdeva,
Advocate for Respondent No.1/UOI.
Mr. Siddharth Panda, Advocate for
LAC/L&B
Ms. Mrinalini Sen, Advocate for
DDA.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

08.01.2019

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Dr. S. Muralidhar, J.:

1. The prayer in the present petition reads 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 5 Bighas 4 Biswas of land comprised in Mustatil No.14, Khasra No.21 min (2-12) and Khasra No.21 min (2-12), situated in revenue Estate of Village Deoli, Tehsil Mehrauli, NCT OF Delhi also described as property No.F-130, W5A/20, Western Avenue, Sainik Farm, New Delhi, having lapsed and further quashing the impugned notification No. F.9(16)/80-L&B dated 05.11.1980 issued under section 4, Notification No.F.9(23)/85-L&B dated 06.06.1985 issued under Section 6 of

the Land Acquisition Act, 1894 and the Award no.19/87-88 with respect to 5 Bighas 4 Biswas of land comprised in Mustatil No.14, Khasra No.21 min (2-12) and Khasra No.21 min (2-12), situated in revenue Estate of Village Deoli, Tehsil Mehrauli, NCT of Delhi also described as property No.F-130, W5A/20, Western Avenue, Sainik Farm, New Delhi.

(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 Petitioners over 5 Bighas 4 Biswas of land comprised in Mustatil No.14, Khasra No.21 min (2-12) and Khasra No.21 min (2-12), situated in revenue Estate of Village Deoli, Tehsil Mehrauli, NCT of Delhi also described as property No.F-130, W5A/20, Western Avenue, Sainik Farm, New 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 is that a notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued on 5th November 1980 followed by a declaration under Section 6 of LAA issued on 6^h June 1985. The Award was passed on 5th June 1987.

3. In response to the petition, an affidavit has been filed by the LAC on 9th March, 2009 stating that on account of the interim orders passed by this Court in petitions filed by some of the persons interested in the land being acquired, which interim orders were in operation till 2005, possession of the land in question could not be taken. It is pointed out that this Court in one set of writ petitions decided the issue in favour of those Petitioners and quashed the land acquisition proceedings whereas in another set it decided against them. The appeals filed by those who had failed in this Court were dismissed

by the Supreme Court in *Om Parkash v. Union of India* (2010) 4 SCC 17. The appeals filed by the Government of India were also dismissed by the Supreme Court in *Union of India v. Shiv Raj* (2014) 6 SCC 564. The status of payment of compensation was unable to be ascertained as the Statement 'A' was not traceable.

4. A separate affidavit has been filed by the DDA on 8th February, 2016 contending *inter alia* that the present petition is barred by delay and laches with the Award having been passed way back on 5th June, 1987. No rejoinder has been filed by the Petitioner to either of the affidavits of the LAC or the DDA.

5. There is no explanation whatsoever in the petition for the inordinate delay in the Petitioners coming forward to seek relief under Section 24 (2) of the 2013 Act. What is significant also is that there is no averment in the petition that the Petitioners themselves challenged the acquisition proceedings concerning the lands in question earlier in this Court. Also, it is averred by the Petitioners in para 4.5 of the petition that:

“The said land of the Petitioners now forms part of Sainik Farms Colony, which is extensively built up and that it is inhabited by scores of people. The Government of India and the Government of NCT of Delhi have adopted various laws, rules and regulations to give protection to the constructions existing in unauthorized colonies. The Government is also contemplating including the Sainik Farms within the provisions of Regulation for Regularization of Unauthorized Colonies in Delhi. There is thus, active consideration going on to regularize the Sainik Farms Colony, giving it a legal sanctity.”

6. It is further averred in para 8.3 of the petition as under:

“The said land forms part of completely built up colony by the name of Sainik Farms and that it is also identified as property No. F-130, W5A/20, Western Avenue, Sainik Farms, New Delhi. The said land is completely built up and that it is used for the residential purposes by the Petitioner No.1. The Petitioners has electricity connection for the said land and that the said land is also assessed to property tax by Municipal Corporation of Delhi.”

7. Learned counsel for the Petitioners sought to place reliance on the opinion rendered by the Solicitor General of India on the question of interpretation of the 2013 Act. This opinion is referred to in para 25 of the judgment of the Supreme Court in ***Union of India v. Shiv Raj*** (*supra*).

8. This Court has perused para 25 of the aforementioned judgment and the relevant portion where the opinion of the Solicitor General has been extracted. It only states that the period spent during litigation would also be accounted for the purpose of determining the period of 5 years prior to coming into force of the 2013 Act. In the first place, on the facts of the present case, those observations are not helpful to the present Petitioners. Secondly, the said opinion does not touch on the aspect of delay and laches in approaching the Court for the relief of a declaration under Section 24 (2) of the 2013 Act. In fact the ratio of the decision of the Supreme Court in ***Union of India v. Shiv Raj*** (*supra*) concerns the right of a person interested in the land sought to be acquired to object under Section 5-A of the LAA. That case did not decide the issue whether the Petitioners seeking relief under Section 24 (2) of the 2013 Act have to approach the Court within a reasonable time.

9. That issue was addressed in the subsequent judgment of the Supreme

Court in *Mahavir v. Union of India (2018) 3 SCC 588*, which is squarely in the context of the 2013 Act. The said judgment is unambiguous in emphasising that claims that are barred and where there is total inaction are not meant to be revived by the 2013 Act. The relevant observations of the Supreme Court in the said decision read as under:

“22. In our opinion, the cases in which there is deliberate action of the owners for not collecting the compensation and they do not want to receive it, Section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by willful act. The failure to deposit in court under Section 31(1) in such cases would attract only interest as envisaged under Section 34 of the Act and the provisions of Section 24 cannot be so invoked in such cases.

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.

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26. The provision of Section 24 does not invalidate courts judgments/orders in which right have been finally lost or due to inaction is barred. Law does not permit examination of barred or totally fraudulent claims. The provisions of the law cannot be permitted to be defrauded or misused. Section 24(2) of the 2013 Act cannot be invoked in such cases. The High Court has rightly declined to entertain the writ petitions filed by the petitioners. It is not conceivable how the petitioners could file such a petition in a laconic manner relating to the prime locality at New Delhi that too for hundreds of acres with the delay of more than 100 years.”

10. Apart from the fact that the present petition is clearly barred by laches, the Court finds that the admitted case of the Petitioners is that the lands in question are completely built up and form part of the unauthorised colony called Sainik Farms in respect of which the relief of regularisation is also being pursued. The Petitioners are obviously seeking parallel remedies. On the one hand they are pursuing the remedy of regularisation which is premised on the colony being unauthorised inasmuch it is located on land which vests in the government. It is difficult to appreciate the same Petitioners seeking now a declaration to the contrary when they failed to assert their ownership of the lands in question or challenge the acquisition proceedings in all these years. The present petition on that score appears to be an abuse of the process of law.

11. Consequently, the Court finds no merit in this petition.

12. The petition is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 08, 2019

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