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

+ **W.P.(C) 10398/2015**

PRATAP SINGH & ORS.

..... Petitioner

Through: Mr. Anil Kumar, Advocate

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Pawan Mathur, Standing Counsel for
DDA

Mr. Yeeshu Jain, Standing Counsel and Ms.
Jyoti Tyagi for L&B/LAC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

06.02.2019

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1. The prayer in the petition reads as under:

“(a) this Hon'ble Court may pleased be issued a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land comprised in khasra No.639/295 (0-12) and 296 (2-09) situated in the revenue estate of village Lado Sarai, Tehsil Hauz Khas, Mehrauli, New Delhi acquired vide Award No.36/1980-81dated 19.06.1980 and further to issue an appropriate writ order or direction declaring the acquisition proceedings having been lapsed and have become in operative after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and also award cost of the present proceedings in favour of the petitioners.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 13th November 1959, followed by declaration under Section 6 of the LAA on 16th May 1966. The impugned Award

No. 360/1980-81 was passed on 19TH June 1980. 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 ADM (South), it is stated that the physical possession of the subject land was taken on 24th June 1980 and handed over to the DDA. It is also submitted that the status of payment of compensation cannot be ascertained as the Naksha Muntazim is in a torn condition.

4. 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 lands bearing Khasra Nos. 639/295(0-12) and 296(2-9) were acquired “for public purpose for the planned development of Delhi.” The physical possession of this land was handed over to the DDA by LAC on 24th June 1980. On the aspect of compensation, it is stated that payment of compensation of Rs. 1,84,87,000/- was made to the LAC on 16th June 1980 by cheque no. 303827.

5. The Rejoinder filed by the Petitioner to the counter affidavit of DDA merely reiterates the averments in the petition. On the aspect of compensation, the Petitioner claims that they have not received any compensation. In the rejoinder the Petitioner has mentioned the following:

“(o) That in para No.(o) the contents which are matter of record needs no reply, rest of the contents of the para as stated are wrong and denied. It is to submit here that neither the predecessor interest nor the petitioners-have ever received the amount of compensation with respect to the land in question.”

6. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question gives rise to a disputed question of facts. The

fact further remains that the Petitioners have no explanation to offer for the inordinate delay in approaching the Court for the relief.

7. 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.”

8. The above decision have been re-affirmed 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.”

9. The above observations have been followed by this Court in several orders including the order dated 10th 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.

10. 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.

11. The interim order passed by this court on 6th November 2015 which stood confirmed on 2nd November 2017 stands vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 6, 2019
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