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

+ **W.P.(C) 11023/2015**

SATISH CHAND GUPTA & ANR. Petitioners

Through: Mr. Vishal Maan, Advocate.

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sanjeev Sagar, Standing
Counsel with Ms. Nazia Parveen for DDA
Mr. Yeeshu Jain, Standing Counsel and Ms.
Jyoti Tyagi for L&B/LAC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA

ORDER
09.05.2019

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1. The prayers in the petition read as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of Petitioners measuring 5 bigha 10 biswas comprised in Old Khasra no. 2797/2026/1675/6min and New Khasra No. 1228 (5-10), situated in Revenue Estate of Village Mehrauli, New Delhi, under the Land Acquisition Act, 18⁴ to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

ii. Direct the respondents to initiate the proceedings of such land acquisition afresh in accordance with the provisions of New Land Acquisition Act.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) was issued on 23rd January 1965, followed by declaration under Section 6 of the LAA on 7th

December 1966. The impugned Award No. 80-G/70-71 was passed on 20th August 1985 and a supplementary Award No. 36/1986-87 was passed later thereon. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

3. The Petitioners are praying for a declaration that entire acquisition proceedings in respect of landmeasuring 5 bigha 10 biswas, comprised in Old Khasra no. 2797/2026/1675/6min, and New Khasra No. 1228 (5-10), situated in Revenue Estate of Village Mehrauli, New Delhi are deemed to have lapsed. It is an admitted fact in Para 4.2 of the Petition that the physical possession of the subject land was taken over by the Respondents in 1987. It is stated that the predecessor-in-interest of the Petitioners, Shri Murari Lal was the recorded owner of the land. It is stated that no notice was served upon the Petitioners when possession was taken. The Petitioners contend that they have not received compensation.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that during the course of acquisition proceedings, the father of the Petitioners (Shri Murari Lal) filed CWP No. 1319/85 titled ***Murari Lal Gupta v. Union of India***. By order dated 31st May 1985 the court had ordered stay of announcement of the Award. It is stated that the Award was announced only with respect to 23 Bhigha 01 biswa and for the remaining 5 bhigha 10 biswa was not announced. It is further stated that later on the Court passed an order dated 5th September 1985 and modified its previous order and converted the said order into a stay of dispossession till disposal of the petition. It is stated that only after that was the Award No. 36/86-87 made in respect of Old Khasra No.2797/2026/1675/6min (New Khasra No. 1228). Surprisingly, this fact has not been disclosed by the Petitioners

in the writ petition. The Petitioners state that physical possession of the land was taken over by the Respondents in 1987 whereas at that time there was a stay operating in favor of the Petitioners.

5. It is further stated in the counter affidavit of the LAC that possession of Khasra No. 2797/2026/1675/6min (New Khasra No. 1228) could not be taken due to stay against dispossession in CWP No. 1319/85. On the aspect of compensation it is stated that:

“That neither the payment file nor the statement-A is available of the aforesaid award. The Naksha Muntazim also does not disclose the factum of payment. Hence, it cannot precisely be said whether the compensation has been paid or not”.

6. No rejoinder has been filed by the Petitioners to counter the facts disclosed by the LAC nor have they filed any additional affidavit as prayed for in the previous order. In the circumstances, the assertion by the Petitioners that they are entitled to compensation gives rise to a disputed question of fact. 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 has been reaffirmed by the judgment of the three Judge Bench of the Supreme Court 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 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 become 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. 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 (supra)* regarding the tendering of compensation, and on certain other issues but 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 *Mool Chand v. Union of India 2019 (173) DRJ*

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10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 09, 2019
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