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

Date of Decision: 17.01.2020

+ W.P.(C) 597/2020

REX (U. & A.) REMEDIES PVT LTD

..... Petitioner

Through: Mr. Akhilesh Singh, Advocate.

versus

GOVT OF STATE OF NCT OF DELHI & ORS Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for R-1 & 4.

Mr. Abhinav Sharma, Advocate for
R-2.

Mr. Arjun Pant, Advocate R-3/DDA.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

SANJEEV NARULA, J. (Oral):

C.M. No. 1635/2020 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition under Article 226 of the Constitution of India impugns notification dated 15.09.2000 issued under Section 4 and 17 (3) and 17 (4) of the Land Acquisition Act, 1894 (hereinafter referred to as 'LAA'), whereby the Petitioner's land measuring 1 Bigha 10 Bishwas out of Khasra

No. 444 Min, North side attached with land of Sh. Umrao Singh , situated in the revenue state of Village-Bhalswa Jahangirpuri, Delhi was acquired by the Respondents.

4. The prayers made in the present petition are as follows:

“i. To issue a writ of Mandamus or Certiorari setting aside the impugned Notification dated 15.09.2000 issued by the respondents in respect of property Agricultural land measuring 1 Bighas 10 Biswas out of Khasra No. 444 min north side attached with land of Sh. Umrao Singh situated in the revenue state of village Bhalswa Janhangirpuri, Delhi of the petitioner.

ii. Direct the respondents to receive back the compensatory amount from the petitioner paid prior to the petitioner.”

5. In brief, the case of the Petitioner is that the Petitioner purchased the subject land in question vide sale deed dated 16.08.1999. The Respondents issued notification dated 15.09.2000 under Section 4 and 17(3) and 17(4) of the LAA, whereby the subject land was acquired. Petitioner received compensation of Rs. 6,36,575/- and this aspect is not disputed. Petitioner however contends that he is in vacant possession of the subject land even today. Further, the Petitioner relies upon certain orders passed by this Court dated 12.12.2002 passed in several other writ petitions to contend that the notification impugned in the present petition has been set aside in respect of the lands that form the subject matter of the said petition. On the strength of the aforesaid matter, Petitioner contends that since the land that forms the subject matter of the writ petition No. 112/2002 is in the vicinity of khasra No. 444, where the Petitioner's land is situate, the Petitioner is entitled to

similar relief.

6. The Petitioner was queried about the delay in filing the present petition. However, no purposeful explanation has been tendered in the petition to justify the inordinate delay in coming forward to challenge the present acquisition proceedings. The notification for the subject land was issued in 2000, whereas the present petition has been filed after almost two decades. The petition is obviously barred by laches.

7. The Supreme Court has dealt with issue of delay and laches in ***Mahavir v. Union of India, (2018) 3 SCC 588***, in the context of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said judgment is unambiguous in emphasising that claims 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.

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. ”

(Emphasis supplied)

8. The aforesaid Judgment has been considered by the Supreme Court in the

decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“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."

(emphasis supplied)

9. This Court has also dealt with the issue of delay and laches in the case of ***Mool Chand v. Union of India*** (W.P. (C) 4528/2015) dated 17th January 2019, wherein the Court while elaborating the decision of ***Mahavir v. Union of India***, (2018) 3 SCC 588 and ***Indore Development Authority v. Shailendra***, (2018) 3 SCC 412, on the aspect of delay and laches, made the following observations:

"34. The question then arises whether only the points of difference between the decisions in Pune Municipal Corporation (supra) and Indore Development Authority v. Shailendra (supra) and all issues incidental thereto have been referred to the Constitution Bench? In this context it requires to be noted that although several questions were framed in Indore Development Authority v. Shailendra (supra), it is only on Question I, viz., on whether the deposit in the RD Account would amount to having tendered compensation for the purposes of Section 24 (2) of the 2013 Act, that there was a difference of opinion between the view expressed in the two decisions viz., Pune Municipal Corporation (supra) and Indore Development Authority v. Shailendra (supra).

35. *The other point of difference was that arising in Yogesh Neema v. State of MP (supra) where the correctness of the decision in Sree Balaji Nagar Residential Association v. State of Tamil Nadu (supra) as regards exclusion of the period covered by the interim orders from the calculation of the period of five years under Section 24 (2) of the 2013 Act was questioned. On this point the three-Judge Bench in Indore Development Authority v. Shailendra (supra) unanimously overruled the decision in Sree Balaji Nagar Residential Association v. State of Tamil Nadu (supra). On this issue no subsequent Bench of the Supreme Court of co-ordinate strength appears to have taken a contrary view. It is doubtful, therefore, whether this issue would be examined by the Constitution Bench.*

36. *Relevant to the issue on hand, there was no difference of view qua Question III addressed in Indore Development Authority v. Shailendra (supra) i.e. "Whether section 24 of Act of 2013 revives barred and stale claims?" On this question there was no view (much less a contrary view) expressed in Pune Municipal Corporation (supra) or for that matter in any other subsequent decision of a smaller, co-ordinate or even larger Bench of the Supreme Court. This question, therefore, was not the subject matter of reference before the Constitution Bench.*

37. *Consequently, this Court is of the view that although the order passed by the Constitution Bench refers to "all the aspects" being considered by the Constitution Bench, that expression would not include questioning the correctness of the decision of the three-Judge Bench in Indore Development Authority v. Shailendra (supra) as far as it holds by a unanimous opinion that Section 24 (2) of the 2013 Act cannot revive old and stale claims."*

(Emphasis supplied)

10. Similar orders have been passed in several other cases, such as in the case of *Sushma Purthi v. Union of India* (W.P. (C) 586 of 2016) dated 31st

January 2019, *Krishan v. Union of India* (W.P. (C) 4919 of 2014) dated 25th January 2019, *Mohd. Mian v. Union of India* (W.P. (C) 2702/2019) dated 5th February 2019. The aforementioned cases have been dismissed by this court on the ground of delay and laches. Challenge against these judgments have been dismissed by the Supreme Court vide SLP (C) No. 11481/2019, SLP (C) No. 13423/2019 and SLP (C) No. 8848/2019, respectively.

11. Though the present petition does not invoke Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, however the nature of reliefs are couched in a manner to avoid judicial scrutiny and the view expressed by this Court in several decisions including those referred above, whereby this Court has dismissed the petitions on the ground of delay and laches. The Petitioner seeks to quash the impugned notification whereby the land of the Petitioner was acquired. There is no legal basis set up or asserted in any of the grounds urged in the petition to justify the right to seek quashing of the notification. Merely because others may have challenged the notifications in question and succeeded in their cases contemporaneously, does not afford the Petitioner the right to file this belated petition. The relief granted to the writ petitioners in CWP No. 112/2002 was personal to them and did not cover the Petitioner. The only possible ground that could possibly be pressed into service as enshrined in Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. However, as we have held, the said provision can be of assistance only to genuine land owners, who have approached the Court without any delay and only if the facts of the case warrant grant of such relief to them.

In the present case, after twenty years, the Petitioner has approached this Court without giving any explanation whatsoever for the delay and laches. The petition is wholly silent on this aspect and furthermore in absence of any independent legal right to seek quashing of the notification discernible in the present petition, we are not inclined to entertain the same.

12. Accordingly, the present petition is dismissed on the ground of delay and laches as also on merits.

SANJEEV NARULA, J

VIPIN SANGHI, J

JANUARY 17, 2020

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