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

+ **W.P.(C) 563/2018**

RAM AVTAR SONI & ORS

.....Petitioners

Through: **Mr. Aditya Pratap Singh, Adv.**

versus

**LIEUTENANT GOVERNOR OF
DELHI & ORS**

.....Respondents

Through: **Mr. Siddharth Panda & Mr.
Anil Pandey, Adv. for Resp./
LAC.**

**Mr. Aditya Pratap Singh, Adv.
for Resp./DDA.**

**Mr. Sanjay Kumar Pathak, St.
Counsel with Mr. Sunil Kumar
Jha & Mr. M.S. Akhtar, Adv.
for Resp./ L&B.**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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26.11.2024

1. This writ petition has been preferred seeking the following reliefs:

“A) Issue a writ / order / direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land in question i.e. Khasra Nos. 59/15 (4-01), 60/11 (3-16) admeasuring in total 7 Bigha 17 Biswas situated within the revenue estate of Village Devli, Tehsil Saket, District South in the National Capital Territory of Delhi and further to issue appropriate writ, order or direction declaring the acquisition proceedings having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.

B) Award cost of proceedings to the humble petitioner. AND

A) Pass any other order (s)/ direction (s) in the interest of justice as this Hon'ble Court may deem fit and proper.”

2. The petitioner in essence seeks a declaration referable to



Section 24(2) of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013**¹ on the assertion that the original acquisition would be deemed to have lapsed.

3. From the disclosures which are made on behalf of the **Land Acquisition Collector**², we find that the subject land came to form part of a Notification under Section 4 of the **Land Acquisition Act, 1984**³ which had been issued on 05 November 1980. This was followed by a declaration under Section 6 which came to be published on 06 June 1985. The LAC proceeded to pass an Award on 05 June 1987.

4. Admittedly, the petitioner is not the recorded tenure holder since he claims to have acquired an interest in the acquired property only sometime in 2011 by virtue of an assignment deed. This would constitute the first reason on the basis of which the relief as claimed would be liable to be denied.

5. Apart from the above, we also take note of the following additional disclosures which have been made by the LAC. We are informed in terms of the averments taken in paragraph 8 of the counter affidavit that the compensation amount was originally submitted in Revenue Deposit and was subsequently withdrawn and sent to the award file pertaining to Village Ambarhai of P.S. Usede as per an authorization dated 09 November 1990.

6. The respondents allude to the various interim orders which had operated on separate writ petitions and as a consequence of which the possession of the entire land forming part of acquisition could not be

¹ 2013 Act

² LAC



taken.

7. Of equal significance is the fact that the recorded tenure holder Smt. Akash Sehgal had preferred a CWP 1518/1986, assailing the original acquisition proceedings and thereafter chose to withdraw the same. It is in the aforesaid backdrop that the respondent would contend that the petitioner is clearly not entitled to relief.

8. We find that quite apart from the acquisition having concluded way back in 1987, the petitioner having acquired an interest in the land in 2011, the instant writ petition came to be preferred years thereafter in 2018. It is in the aforesaid backdrop that we bear in consideration the salient observations rendered by the Supreme Court in **Mahavir & Ors. vs. Union of India & Anr.**⁴ and where it was held:-

“21. The Court is duty-bound to prevent the abuse of the process of law in the cases which have been concluded several decades before, in our considered opinion, the provisions of Section 24(2) of the 2013 Act cannot be invoked in such cases of dead claims or stale claims. There are several numbers of cases coming to this Court in which matters had been contested up to this Court questioning the acquisition and the petitions have been dismissed by this Court, and acquisition has attained finality, possession was taken, the award passed. Notice had been issued under Section 12(2) of the Act tendering the awarded amount but it has not been collected by the claimants/landowners deliberately or they had refused to collect it and are not ready and willing to accept it and, thereafter, it has been deposited in the name and account of the owners in the treasury which is also deposited as per the State Government's instructions issued time to time relating to how government money is to be dealt with. The act of failure to deposit money under Section 31 after possession is taken only imposes liability to pay higher interest under Section 34. The acquisition would not lapse under the Act.

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

³ 1894 Act

⁴ [(2018) 3 SCC 588]



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 wilful 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.

25. The High Court has observed that Raisina is a part of the Lutyens zone of Delhi. It is prime locality of New Delhi and government offices, etc. are located. The petitioners asked the High Court to infer and conclude that in the absence of some indication of the record being made available by them that their ancestors have not ever received any compensation. How the petitioners came to know that their ancestors had not received compensation has not been disclosed in the petition. The High Court has rightly declined to entertain such claims. The protective umbrella of Section 24 is not available to barred claims. If such claims are entertained under Section 24, it would be very-very difficult to distinguish with the frivolous claim that may be made even after tampering the records, etc. or due to non-availability of such record after so much lapse of time. Once right had been lost due to delay and laches or otherwise, it cannot be revived under provisions of Section 24 of the 2013 Act. The intendment of the 2013 Act is not to revive stale and dead claims and in the concluded case when rights have been finally lost. If there is delay and laches or claim is otherwise barred, it is not revived under Section 24(2) of the 2013 Act. The provision does not operate to revive legally barred claims.



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. ”

9. We further note that notwithstanding the individual challenges which were raised to the original acquisition proceedings, the predecessor-in-interest of the writ petitioner had initially assailed the acquisition before this Court and thereafter chose to withdraw that plea. It is in the aforesaid context that the following observations of the Supreme Court in **Delhi Development Authority vs. Godfrey Phillips (I) Limited & Ors.**⁵ assume significance:

“37. The original landowner had filed a writ petition before the Delhi High Court but such writ petition was dismissed on 2-12-1985. The special leave petition was withdrawn on 12-9-1989 even though the reservation was conveyed by the learned counsel appearing for the appellant. Such withdrawal was after the judgment of the High Court in *Balbir Singh case*. The original landowners have made a conscious decision not to continue with the special leave petitions. Thus, all the objections which were available to the original landowner including the purchaser up to that stage cannot be permitted to be raised again.

38. In *Balak Ram (2)*, the acquisition proceedings were quashed since the objections filed by the landowners were not heard or decided in accordance with law. Thus, *Balak Ram (2)* is a judgment in personam and not in rem, as the grievance of the writ petitioners was specific to them. The judgment of the High Court in *Balbir Singh* is based upon the fact that in *Balak Ram (2)*, the entire notification under Section 6 of the Act stands quashed. Such aspect has not found favour in *Abhey Ram* and *Gurdip Singh Uban (1)* and *Gurdip Singh Uban (2)*. Otherwise also, non-hearing of objections filed would be limited to those landowners who have filed objections. The predecessor-in-interest of the purchaser has not filed any objections under Section 5-A of the Act, therefore, the judgment in *Balak Ram (2)* cannot come to the aid of landowners

⁵ [(2022) 8 SCC 771]



who have never preferred any objections.

39. Therefore, the judgment in *Balbir Singh* does not confer any right on the other landowners who have not disputed the acquisition proceedings on the ground of lack of effective hearing of objections under Section 5-A of the Act. Since the original landowner never filed any objections under Section 5-A of the Act, the purchaser cannot seek the relief which was not available even to the original landowner.

40. The purchaser has purchased the property knowing fully well that the vendor has not disputed the acquisition proceedings. But on the basis of an order passed in *Balbir Singh*, it was conveyed and accepted by the purchaser, that the acquisition stands quashed and original landowner was in possession of the land. Since *Sudan Singh*, affirming the order in *Balbir Singh* has not been approved by this Court in the three judgments referred to hereinabove [*Abhey Ram, Gurdip Singh Uban (1)* and *Gurdip Singh Uban (2)*], no right would accrue to the original landowner or the purchaser. The High Court in the impugned order has not noticed any of the three judgments of this Court in *Abhey Ram, Gurdip Singh Uban (1)* and *Gurdip Singh Uban (2)* nullifying the effect of *Balbir Singh* and instead ordered the purchaser to deposit twice of the amount paid to the original landowner. The condition of payment of compensation in *Balbir Singh* by the landowners does not survive in view of the fact that such judgment has not been approved by this Court.”

10. On an overall conspectus of the aforesaid, we find that the challenge as raised is misconceived. The petitioner is clearly disentitled to the reliefs as claimed.

11. The writ petition fails and shall stand dismissed.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 26, 2024/kk