

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

% Date of decision: 8th November, 2017

+ W.P.(C) 9903/2017 & CM. No. 40349/2017

GOKUL CHAND & ORS Petitioners

Through: Mr. N.S. Dalal, Adv.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Ravi Prakash, CGSC with
Mr. Farman Ali and Ms. Anshula
Laroiya, Advs. for R1 and R3.
Ms. Yeeshu Jain, Standing counsel with
Ms. Jyoti Tyagi, Adv. for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J (ORAL)

CM. No. 40349/2017 (for condonation of delay)

This is an application seeking condonation of 90 days delay in re-filing the petition.

For the reasons stated in the application, the delay of 90 days in re-filing the petition is condoned. Application stands disposed of.

W.P.(C) 9903/2017

1. The present petition has been filed by the petitioners with the following prayers:-

“Therefore, on the facts and in the circumstances of the case, it is most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to:-

(i) Issue an appropriate writ, order or direction thereby quashing the Award No. 9 concerning village Bhalaswa, Jahangirpur, Delhi vide which the land of the petitioners had been acquired as non action on part of the respondent to comply with the letter dated 05.12.1936 and 17.01.1937 is illegal and violative of Article 14, 21 and 300 A of the Constitution of India;

(ii) Issue an appropriate writ, order or direction thereby directing the release of the land in view of the letter dated 05.12.1936, vide which proposal for relinquishment of land was communicated to the Deputy Commissioner and also in view of the letter dated 17.01.1937 vide which it was informed by the Deputy Commissioner that land is usually returned to the owners as per the provisions of Para 493 of Punjab Land Administration Manual;

(iii) Pass any such other or further orders as this Hon’ble Court may deem fit and proper on the facts and in the circumstances of the case, in favour of the petitioners and against the respondents.”

2. The averments made in the writ petition are that a Notification dated November 23, 1912 was issued acquiring land of various villages

for Military Grass Farm on account of coronation ceremony of George Pancham. On December 05, 1936, a letter was written by Staff Captain to the Deputy Commissioner thereby informing him about the proposal for relinquishment of land acquired for Military Grass Farm and asking for the valuation of the land. On February 17, 1937 valuation of the land was provided by the Deputy Commissioner to the Staff Captain. It was also pointed out that as per the provisions of para 493 of Punjab Land Administration Manual land is generally returned to the actual owners after receiving the amount paid as compensation.

3. It is the case of the petitioners that they have come to know about the letters written by the Authority and the alleged fraud played upon by the subsequent Authorities only recently in the year 2016 and 2017 and accordingly have filed the present petition seeking the reliefs as stated above.

4. Mr. N.S. Dalal, learned counsel for the petitioners would reiterate the averments made and noted above as his submissions.

5. Having heard Mr. N.S. Dalal, suffice to state that the present writ petition has been filed by the petitioners almost after more than 106 years from the date of the acquisition and after around 81 years from the dates of the letters referred to by the petitioners. It is conceded by the petitioners that compensation on such acquisition was calculated as Rs.20 per acre. In other words, the same was paid. The case of the petitioners is primarily on the letters of the years 1936 and 1937. Having already noted that 106/81 years have lapsed thereafter, the plea of Mr. Dalal that the petitioners have come to know about the said letters only recently in

the years 2016-2017 is highly unbelievable. It is not the case of the petitioners that the petitioners have been approaching the Authorities from time to time. Even on that ground also, the plea would be unsustainable being hit by delay and laches. The present petition is nothing but a total misuse of process of law. In this regard, we would like to refer to the judgment of the Supreme Court in the case of ***Mahavir & Ors v. Union of India & Anr. SLP (C) (Diary No. 24781/2017)*** wherein the petitioners therein had filed a writ petition before this court after 105 years seeking the benefit of the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013. This Court had dismissed the writ petition. The petitioners therein had approached the Supreme Court. The Supreme Court has, in paras 21, 22, 24 and 26 held as under:-

“21. 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.

22. 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.

XXXX

XXXX

XXXX

24. The prayers that have been made in writ petition are not only misconceived, there is an attempt to stop the ongoing construction activity. It has also been mentioned that Government offices etc. have come up and the Government has leased property to private parties also but still, the prayer has been made to stop the construction activity. It passes comprehension how such relief could ever be asked for. No authority had ever been approached by the petitioners or by their ancestors. As such the petition is aimed at the total misuse of the process of law. Even for a moment, such a petition could not have been received for consideration.

XXXX

XXXX

XXXX

26. We are not at all inclined to entertain the instant petition. The Special leave petition is liable to be dismissed, and the same is hereby dismissed with cost as in the facts and

circumstances of the case we find that there is not only misuse but an abuse of the process of law. Therefore, we impose the costs of Rs.50,000/- (Rupees Fifty Thousand Only) which is to be deposited by the petitioners with the Supreme Court Bar Association in the welfare fund of Advocates within four weeks from today and compliance be reported to this Court.”

6. We do not find any merit in the writ petition. The same is dismissed.

V. KAMESWAR RAO, J

G.S.SISTANI, J

NOVEMBER 08, 2017/ak