

\$~18, 19, 20, 21, 22

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

+ **W.P.(C) 1454/2018**

KUM KUM GUPTA

..... Petitioner

Through: Mr. Dheeraj K. Garg, Mr. Saurabh Pathak, Mr. Jay Kamal Agarwal Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Pratyush Miglani, Ms. Hiba Rabia Shah for UOI
Ms. Geeta Mehrotra for DDA
Mr. Yeeshu Jain, Standing Counsel and Ms. Jyoti Tyagi for L&B/LAC

W.P.(C) 1457/2018

KUM KUM GUPTA

..... Petitioner

Through: Mr. Dheeraj K. Garg, Mr. Saurabh Pathak, Mr. Jay Kamal Agarwal Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Pratyush Miglani, Ms. Hiba Rabia Shah for UOI
Ms. Mrinalini Sen with Ms. Kritika Gupta for DDA
Mr. Yeeshu Jain, Standing Counsel and Ms. Jyoti Tyagi for L&B/LAC

W.P.(C) 1471/2018

KUM KUM GUPTA

..... Petitioner

Through: Mr. Dheeraj K. Garg, Mr. Saurabh

Signature Not Verified

Signing Date: 21.10.2024 16:56:28
Certify that the digital and physical file have been compared and the digital data is as per the physical file and no page is missing.

W.P.(C) 1454/2018 and other connected matters

Pathak, Mr. Jay Kamal Agarwal
Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Pratyush Miglani, Ms. Hiba
Rabia Shah for UOI
Mr. Yeeshu Jain, Standing Counsel
and Ms. Jyoti Tyagi for L&B/LAC

W.P.(C) 1505/2018

KUM KUM GUPTA

..... Petitioner

Through: Mr. Dheeraj K. Garg, Mr. Saurabh
Pathak, Mr. Jay Kamal Agarwal
Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Pratyush Miglani, Ms. Hiba
Rabia Shah for UOI
Mr. Yeeshu Jain, Standing Counsel
and Ms. Jyoti Tyagi for L&B/LAC

W.P.(C) 1506/2018

KUM KUM GUPTA

..... Petitioner

Through: Mr. Dheeraj K. Garg, Mr. Saurabh
Pathak, Mr. Jay Kamal Agarwal
Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Pratyush Miglani, Ms. Hiba

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

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
19.07.2019

%

1. All these petitions have been filed by the same Petitioner, the facts are more or less are similar and the reliefs sought are identical. They are accordingly being disposed of by this common order. Nevertheless, each of the petitions was heard separately.

2. For the sake of convenience W.P.(C) 1505 of 2018 titled ***Kum Kum Gupta v. Union of India & Ors.*** is taken up as the lead case. The prayers in the petition read as under:

“i) To declare that the acquisition proceedings in respect of the property admeasuring 2 Bighas 19 Biswas comprised in Khasra No. 422/4 (5 Biswas) and Khasra No. 423 (2 Bhigas and 4Biswas), (earlier agricultural land) now built up portion thereon, situated in Village Neb Sarai, Tehshil - Mehrauli, District-South, New Delhi-110 074, initiated under the Land Acquisition Act, 1894 have lapsed by virtue of Section 24(2) of the new Act, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

ii) Issue any other writ, order, or direction that may be deemed fit and proper in the facts and circumstances of the case in favor of the Petitioner and against the Respondents.”

3. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 5th November

1980, followed by declaration under Section 6 of the LAA on 21st May 1985. The impugned Award No. 12/1987-88 was passed way back on 18th May 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. It is stated in the petition that the Petitioner is the owner the owner and in possession of the property admeasuring 2 Bigha 19 Biswas comprised in Khasra No. 422/4 (5 Biswas) and Khasra No. 423 (2 Bigha and 4 Biswas), (earlier agricultural land) now built up portion thereon, situated in Village Neb Sarai, Tehshil - Mehrauli, District-South." It is stated that the recorded owner of the land was Late Shri Inder Singh. After his passing, his two sons Devinder Singh and Narender Singh were the actual owners. It is stated that the Petitioner acquired the land via registered sale deed dated 1st January 1998 executed by Shri T.S. Chowdhary who is the attorney of the original land owners. It is stated that the Petitioner is still in possession of the said land and no compensation has been paid to the Petitioner or to any of the predecessors-in-interest.

5. In the counter affidavit filed on behalf of the LAC, it is submitted that the Petitioner is claiming ownership of the land based on a sale deed which is registered in Bombay. It is stated further submitted that as per the Naksha Muntazim, the children of one Shri Mehar Singh are the recorded owners of land in Khasra no. 422/4 (0-5), also having half share in land in Khasra no. 423 (2-7) and remaining half share in Khasra no. 423 (2-7) belongs to shri Mansingh. It is stated that possession of Khasra No. 422 and 423 has not been taken. On the aspect of compensation, the LAC has submitted a table

which shows that the compensation was submitted in the RD in 1988 and was subsequently withdrawn for Award No. 1/93-94.

6. No counter affidavit has been filed by the DDA. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC.

7. The averments and pleas in the companion petitions are identical with the only difference being the description of the lands in respect of which the relief is claimed. The responses thereto of the Respondents are identical too.

8. In any event, the assertion of the Petitioners that they continue to remain in possession of the land in question gives rise to a disputed question of fact which cannot be examined in this petition. In these cases, the Notification under Section 4 of LAA was passed on 5th November 1980 and the Award was passed on 18th May 1987. The Petitioner having full knowledge about the status of the land in question and without taking permission from the competent authority as required under Delhi Land (Restriction of Transfer) Act, 1972 has entered into transactions in respect of the lands in question. The validity of the above documents are, therefore, extremely doubtful. In the circumstances, the Court is not satisfied that the Petitioner has been able to even *prima facie* demonstrate its locus standi to file this petition and claim any relief under Section 24 (2) of the 2013 Act.

9. 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.”

10. 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.

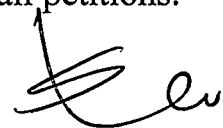
130. We are of the view that stale or dead claims cannot be the subject-matter of judicial probing under section 24 of the Act of 2013. The provisions of section 24 do not invalidate those judgment/orders of the courts where under rights/claims have been lost/ negatived, neither do they revive those 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."

11. 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 as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183* 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 595[DB]*.

12. For the aforementioned reasons, these writ petitions are dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs.

13. The interim order passed by this court on 16th February 2018 which stood confirmed on 19th April 2018 stands vacated in all petitions.



S. MURALIDHAR, J.



TALWANT SINGH, J.

JULY 19, 2019
abc