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

+ **W.P.(C) 9006/2019 & CM APPL. 37200/2019**

GUNJAN MEHTA Petitioner
Through: Mr. V.P. Rana, Advocate

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Yeeshu Jain, Standing
Counsel along with Ms. Jyoti Tyagi,
Advocate.

+ **W.P.(C) 9009/2019 & CM APPL. 37209/2019**

M/s. ASHOK AND COMPANY Petitioner
Through: Mr. V.P. Rana, Advocate

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Yeeshu Jain, Standing
Counsel along with Ms. Jyoti Tyagi,
Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
20.08.2019

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1. These are two petitions arising out a similar set of facts and therefore being disposed of by a common order. Nevertheless, they were heard separately.

2. It must be noted at the outset that the Petitioner in both W.P.(C) 9006/2019 and W.P.(C) 9009/2019 filed a writ petition, being W.P.(C) 13544/2018 and W.P.(C) 13545/2018, respectively. In both the earlier writ petitions, the Court passed an order on 10th January, 2019 dismissing the petitions as withdrawn, while granting liberty to the Petitioners to file a fresh petition, explaining the inordinate delay in approaching the Court for relief. Pursuant to the said order of this Court, the present petitions have been filed.

3. For the sake of convenience, the facts in W.P. (C) 9006/2019 will be set out first. The prayers in the said petition read as under:

“(a) issue a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land measuring 01 Bigha 05 Biswas out of Old Khasra No.325, 326, 329, 330, 332 (New Khasra No.4/21, 22, 24, 25, 26,13/1,10,11) situated in the Village Budhpur Bijapur, Delhi belonging to the petitioner;

(b) issue appropriate write, order or direction declaring the acquisition proceedings in respect of the land measuring 01 Bigha 05 Biswas out of Old Khasra No.325, 326, 329, 330, 332 (New Khasra No.4/21, 22, 24, 25, 26, 13/1, 10, 11) situated in the Village Budhpur Bijapur, Delhi having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013”

4. The background facts are that the land in question i.e. 1 *Bigha 5 Biswas* in Khasra Nos. 4/21, 22, 24, 25, 26,13/1,10,11, all situated in Village Budhpur Bijapur, Delhi (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 27th June, 1985 for the public purpose of “sewerage and water treatment plant in Narela”. This was

followed by a declaration under Section 6 of the LAA dated 21st December, 1994. The Land Acquisition Collector passed an award being Award No. 12/96-97 dated 17th December, 1996.

5. As far as the Petitioner Gunjan Mehta is concerned, it is stated that she purchased the subject land from the recorded owners Satender Kumar and Ashok Mehta by way of a sale deed dated 17th June, 1985. A copy of the *Khatauni* for the year 1984-85, as also the aforesaid sale deed has been annexed with the petition. It is averred in the petition that the possession of the subject land has remained with the Petitioner and compensation has also not been paid to her.

6. The Petitioner states that when she purchased the subject land, she was not aware that she was required to get the revenue record mutated to reflect her name. It is stated that a notice under LAA Section 12 was not issued to the Petitioner. It is contended that as a “person interested” under LAA Section 3 (B), she ought to have received such a notice. Accordingly, it is submitted that the Petitioner was not aware that the impugned Award had been passed in respect of the subject land.

7. It is claimed by Gunjan Mehta that it was only in 2017 that she came to know about the existence of the impugned Award and that upon becoming aware, she filed an application with the LAC for compensation. It is stated that no action was taken on the said application. In this context, it is submitted that it was at the time of filing the application with the LAC that the Petitioner was apprised of Section 24 (2) of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'). It is contended that as neither possession has been taken nor compensation paid, the Petitioner is entitled to relief under the aforesaid provision of the 2013 Act.

8. In the companion writ petition, the background facts and the averments are almost identical, with the subject land being comprised in a different Khasra No., albeit in the same area i.e. Village Budhpur Bijapur. Ownership over the subject land has been claimed to have been by way of a sale deed dated 29th May, 1986 executed by Satender Kumar and Ashok Mehta in favour of the Petitioner Ashok & Co. The Petitioner has sought to make out an identical case for the extraordinary delay in approaching the Court by averring that he was not aware that a mutation had to be carried out in the revenue record and that, therefore, no LAA Section 12 notice was issued to it.

9. The fact remains that despite being granted, by the order dated 10th January 2019 of this Court dismissing the earlier petitions, another opportunity to explain the inordinate delay in approaching the Court for relief, the reasons that have been provided in the present petitions are far from satisfactory or convincing. The contention that the Petitioners were unaware that the revenue records needed to be mutated and that, therefore, a notice under Section 12 LAA was not issued to them, does not appeal to logic particularly since the sale deeds were purportedly executed in 1985 and 1986 respectively i.e., nearly three decades earlier. This can hardly

constitute a sufficient explanation for the nearly 20-year delay in challenging the acquisition proceedings.

10. On the aspect of laches, in ***Indore Development Authority v. Shailendra (2018) 3 SCC 412*** a three Judge Bench of the Supreme Court of India observed as under:

“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.”

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 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 (2014) 3 SCC 183*** regarding the tendering of compensation, and 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 its decision in *Mool Chand v. Union of India* (2019)173 DRJ 595 (DB).

12. For the aforementioned reasons, the writ petitions are dismissed on the ground of laches. The applications are disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 20, 2019
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