

90 1405/17

14

\$~51, 52, 53, 54, 55

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

+ **W.P.(C) 1475/2017**

M/S MERINO REALTORS (P) Ltd. Petitioner
Through: Ms. Jyoti Kataria Bajaj, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Anil Dabas for UOI.
Ms. Akshay Chandra for DDA
Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. M.S. Akhtar for
L&B/LAC

✓ **W.P.(C) 1520/2017**

SWAPNA SINGH Petitioner
Through: Ms. Jyoti Kataria Bajaj, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Arjun Pant for DDA
Mr. Yeeshu Jain, Standing Counsel
and Ms. Jyoti Tyagi for L&B/LAC

W.P.(C) 2236/2017

SUDHA PRASAD Petitioner
Through: Ms. Jyoti Kataria Bajaj, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Brijesh Kumar for UOI.
Ms. Shobhna Takiar with Ms. Shivani
Jain for DDA

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) 1475/2017 and other connected matters

Page 1 of 8

13

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

W.P.(C) 1677/2017

M/S MERINO REALTORS (P) Ltd. Petitioner
Through: Ms. Jyoti Kataria Bajaj, Advocate
versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Anil Dabas for UOI.
Ms. Shobhna Takiar with Ms. Shweta
Anand for DDA
Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. M.S. Akhtar for
L&B/LAC

W.P.(C) 1685/2017

M/S MERINO REALTORS (P) Ltd. Petitioner
Through: Ms. Jyoti Kataria Bajaj, Advocate
versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Anil Dabas for UOI.
Ms. Shobhna Takiar with Ms. Shivani
Jain for DDA
Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. M.S. Akhtar for
L&B/LAC

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **16.07.2019**

1. In all these petitions, the facts more or less are similar and the reliefs

sought are almost 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) 1475 of 2017 titled *M/s Merino Realtors (P) Ltd. v. UOI & Ors.* is taken up as the lead case. The prayers in the petition read as under:

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect to 1/5th undivided share in agricultural land measuring 81 Bighas and 6 Biswas (Equal to 16 Bighas and 5 Biswas), comprised in Khasra Nos. 600 (2-15), 629(44-9), 639 (12-4), 647 (8-7), 649 (2-8), 651 (0-17) & 972/673/674/367 (10-6), situated in the revenue estate of Village Maidan Garhi, NCT of Delhi, having lapsed and further quashing the impugned notification No. F.9(16)/80- L&B dated 25.11.1980 issued under section 4, Notification No.F.9(28)/85-L&B dated 18.06.1985 issued under Section 6 of the Land Acquisition Act, 1894 and the Award no.23/87-88 with respect to 1/5th undivided share in agricultural land measuring 81 Bighas and 6 Biswas (Equal to 16 Bighas and 5 Biswas), comprised in Khasra Nos. 600 (2-15), 629(44-9), 639 (12-4), 647 (8-7), 649 (2-8), 651 (0-17) & 972/673/674/367 (10-6), situated in the revenue estate of Village Maidan Garhi, NCT of Delhi.

AND

(ii) issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 1/5th undivided share in agricultural land measuring 81 Bighas and 6 Biswas (Equal to 16 Bighas and 5 Biswas), comprised in Khasra Nos. 600 (2-15), 629(44-9), 639 (12-4), 647 (8-7), 649 (2-8), 651 (0-17) & 972/673/674/367 (10-6), situated in the revenue estate of Village Maidan Garhi, NCT of Delhi.”

3. The narration in the petition reveals that the notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 18th June 1985. The impugned Award No. 23/1987-88 was passed way back in 1987-88. 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 in actual physical possession of undivided share in agricultural land measuring 81 Bighas and 6 Biswas (Equal to 16 Bighas and 5 Biswas), comprised in Khasra Nos. 600 (2-15), 629(44-9), 639 (12-4), 647 (8-7), 649 (2-8), 651 (0-17) & 972/673/674/367 (10-6), situated in the revenue Estate of Village Maidan Garhi." It is stated that one Shri Hoshiyar Singh was the recorded owner of the land in question and after his demise, the land was inherited by his two sons. It is stated that the Petitioner through his authorised representative purchased the subject land from the two sons by way of an Agreement to Sell (ATS) dated 10th September 2005 and General Power of Attorney (GPA) dated 21st April 2006.

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 an ATS and GPA which are not valid instruments conferring title on the Petitioner. It is stated that possession of Khasra Nos. 600 (2-15), 629 (44-9), 639 (12-4), 647 (8-7), 649 (2-8), 651 (0-17) 972/673/674/367 (10-6) was taken and handed over to the DDA on 16th July 1987. On the aspect of compensation, it is submitted that the compensation amount has been paid to the recorded owners. In the

present case, a compensation amount of Rs. 5,09,237.84 was paid to each of the sons of the recorded owner.

6. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that the Petitioner has purchased the property in question through GPAs and ATS which are not valid instruments of sale. It is also submitted that the land in question has been purchased by the Petitioner after the award has been passed which is barred by Section 4 of the Delhi Land (Restriction on Transfer) Act, 1972. No rejoinder has been filed by the Petitioner to the counter affidavit of the LAC or the DDA.

7. In any event, the assertion of the Petitioner that it continues to remain in possession of the land in question gives rise to a disputed question of fact which cannot be examined in this petition. Moreover, the documents on the basis of which the Petitioner is claiming ownership are not valid. A perusal of the said documents reveals that they do not confer any valid right, title or interest in respect of the lands in question in favour of the Petitioner. In this case, the Notification under Section 4 of LAA was issued on 25th November 1980 and the Award was passed on 5th June 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 the above 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

8. 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."

9. The above decision has been reaffirmed by the judgment of the three Judges 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.

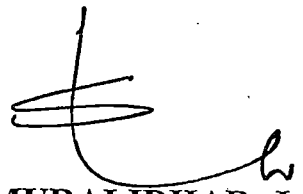
130. We are of the view that stale or dead claims cannot be the subject-matter of judicial probing under section 24 of the Act of 2013. The provisions of section 24 do not invalidate those judgment/orders of the courts where under rights/claims have been lost/negatived, neither do they revive those rights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

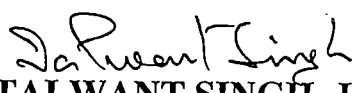
section 24(2) cannot be permitted. Protection by the courts in cases of such blatant misuse of the provisions of law could never have been the intention behind enacting the provisions of section 24 (2) of the 2013 Act; and, by the decision laid down in *Pune Municipal Corporation (supra)*, and this Court never, even for a moment, intended that such cases would be received or entertained by the courts.”

10. 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 (supra)* 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*.

11. For the aforementioned reasons, the 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.

12. Interim orders, if any, stand vacated in all petitions.


S. MURALIDHAR, J.


TALWANT SINGH, J.

JULY 16, 2019/abc