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

+ **W.P.(C) 10/2016 & CM APPL. 7335/2016**

SHYAM KUMAR AGGARWAL Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr.
Pranav Gupta, Advocates.

versus

UNION OF INDIA Respondent

Through: Mr.Yeeshu Jain along with Ms.Jyoti
Tyagi, Advocates for LAC/L&B.
Mr. Nikhil Goel, Standing Counsel
for DDA along with Mr. Dushyant
Sarna, Advocates.
Ms. Beenashaw N. Soni, Additional
Standing Counsel, DDA.

+ **W.P.(C) 13/2016**

REKHA GUPTA Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr.
Pranav Gupta, Advocates

versus

UNION OF INDIA Respondent

Through: Mr.Yeeshu Jain along with Ms.Jyoti
Tyagi, Advocates for LAC/L&B.
Mr. Nikhil Goel, Standing Counsel
for DDA along with Mr. Dushyant
Sarna, Advocates.

+ **W.P.(C) 16/2016**

DINESH GOYAL Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr.
Pranav Gupta, Advocates

versus

W.P. No 10/2016 and other connected matters

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UNION OF INDIA

.... Respondent

Through: Mr.Yeeshu Jain along with Ms.Jyoti Tyagi, Adovcates for LAC/L&B.
Mr. Nikhil Goel, Standing Counsel for DDA along with Mr. Dushyant Sarna, Advocate.
Ms. Beenashaw N. Soni, Additional Standing Counsel, DDA
Mr. Arun Birbal, Advocate for DDA

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MEENA JAIN

W.P.(C) 17/2016

.... Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr. Pranav Gupta, Advocates

versus

UNION OF INDIA

.... Respondent

Through: Mr.Yeeshu Jain along with Ms.Jyoti Tyagi, Adovcates for LAC/L&B.
Mr. Arun Birbal, Advocate for DDA

+

W.P.(C) 18/2016

ALKA GUPTA

.... Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr. Pranav Gupta, Advocates

Versus

UNION OF INDIA

.... Respondent

Through: Mr.Yeeshu Jain along with Ms.Jyoti Tyagi, Adovcates for LAC/L&B.
Mr. Nikhil Goel, Standing Counsel for DDA along with Mr. Dushyant Sarna, Advocates.

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W.P.(C) 27/2016

KANAK KANSAL

.... Petitioner

Through: Mr. Rajeshwar K. Gupta & Mr.
Pranav Gupta, Advocates

versus

UNION OF INDIA

.... Respondent

Through: Mr. Yeeshu Jain along with Ms. Jyoti
Tyagi, Advocates for LAC/L&B.
Mr. Nikhil Goel, Standing Counsel
for DDA along with Mr. Dushyant
Sarna, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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17.07.2019

1. These are six petitions arising out of a similar set of facts and seeking similar relief and are accordingly disposed of by the present common order. Nevertheless each of the petitions was heard separately.

2. For the sake of convenience the facts in W.P.(C) 10/2016 (*Shyam Kumar Aggarwal v. Union of India*) are referred to first. The prayers in the said petition read as under:

“a) issue an appropriate writ, order or direction in the nature of mandamus or certiorari directing the respondent to put the petitioner in possession with all rights, titles and interests of his land being 1 Bigha 2 Biswa out of Khasra No. 1181/621 at Village - Kilokiri, now Tehsil - Defence Colony, District South, New Delhi within a period that may be fixed by the Hon'ble Court;

b) allow the costs of the petitioner in her favour.”

W.P. No 10/2016 and other connected matters

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3. According to the Petitioner, he is the registered owner of 1 *Bigha* 2 *Biswas* in Khasra No. 1181/621 at village Kilokri, New Delhi by virtue of a sale deed registered on 2nd February, 1988. The Petitioner states that his name was duly mutated. A copy of the *jamabandi* dated 27th April, 1988, showing the name of the Petitioner is annexed to the petition.

4. In respect of the acquisition of the land in question a notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 23rd June, 1989. This was followed by a notification under Section 6 and 17 of the LAA on 22nd June, 1990. The Land Acquisition Collector ('LAC') passed Award No. 14/92-93 in respect of land admeasuring 2228 *Bighas* 5 *Biswas* in the village Kilokri.

5. The case of the Petitioner is that possession of the subject land was taken on 22nd September, 1995, but that compensation was not paid despite repeated letters to the LAC requesting for the same. Annexed to the petition are copies of the letters to the LAC. Thereafter, the petition refers to the passage of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing under Section 24(2) therein on the ground that compensation had not been paid to the Petitioner.

6. A counter affidavit has been filed on behalf of the LAC in which it is averred that possession of the subject land was taken and handed over to the DDA on 22nd September, 1995. It is averred that a reference for compensation was made to the Reference Court under Section 30-31 of the LAA long back. It is also averred that the compensation has been duly paid to a majority of the recorded owners and that the Petitioner has not filed any document in support of the contention that compensation was not paid. A copy of the *Naksha Muntazamin* has been annexed to the counter affidavit.

7. A rejoinder has been filed by the Petitioner to the aforesaid counter affidavit. It is stated therein that possession of the land was never taken and that the subject land is lying vacant. It is also stated that there was no reference under Section 30-31 of the LAA and that the *Naksha Muntazamin* annexed to the petition is fabricated.

8. As far as the companion petitions are concerned, the prayers in the said petitions are more or less similar and only differ inasmuch as the size of the subject land is concerned. Akin to the Petitioner in W.P.(C) 10/2016, the Petitioners claim to be owners of portions of the Khasra No. 1181/621 at village Kilokri by way of a registered sale deed dated 2nd February, 1988.

9. In all the companion petitions, counter affidavits have been filed on behalf of the LAC and DDA, in which it has been averred that possession of the lands in question has been taken and compensation paid to the recorded owners. Rejoinders have been filed to the counter affidavits of the LAC and *W.P. No 10/2016 and other connected matters*

the DDA in W.P. (C) 13/2016 and W.P.(C) 27/2016, where the Petitioners have denied the averments of the LAC and DDA and emphasized that they remain in possession of the lands in question. In any event, the assertion by the Petitioners that they continued to remain in possession of the land in question gives rise to a disputed question of facts and cannot be examined by the Court in the present petitions.

10. The fact further remains that none of the petitions advance any explanation for the delay in approaching the Court for the relief. 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.”

11. 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:

“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.”

12. 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*.

13. For the aforementioned reasons, the writ petitions are dismissed on the ground of laches. The pending applications are disposed of. The interim orders, if any, in any of the matters are hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

July 17, 2019
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