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

+ **W.P.(C) 211/2017**

M/S ORCHID REALTORS (P) LTD. Petitioner

Through: **Ms. Jyoti Kataria Bajaj, Advocate**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Arjun Pant for DDA**
Mr. Siddharth Panda for L&B/LAC

W.P.(C) 2992/2017

M/S COSMOS REALTORS (P) LTD. Petitioner

Through: **Ms. Jyoti Kataria Bajaj, Advocate**

versus

UNION OF INDIA & ORS. Respondents

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

W.P.(C) 3038/2017

M/S ORCHID REALTORS (P) LTD. Petitioner

Through: **Ms. Jyoti Kataria Bajaj, Advocate**

versus

UNION OF INDIA & ORS. Respondents

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

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CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
24.07.2019

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1. In all these petitions, 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) 211 of 2017 titled *M/s. Orchid Realtors v. Union of India & 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 14 Bighas and 17 Biswas of agricultural land comprised in Khasra No.617 (4-11) &619 (10-6), situated in revenue Estate of Village Maidan Garhi, NCT 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 14 Bighas and 17 Biswas of agricultural land comprised in Khasra No.617 (4-11) &619(10-6), situated in revenue Estate of Village Maidan Garhi, NCT 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 14 Bighas and 17 Biswas of agricultural land comprised in Khasra No.617 (4-11) &619(10-6), situated in revenue Estate of Village Maidan Garhi, NCT

Delhi.”

3. It is stated in the petition that the Petitioner is the owner in actual physical possession of 14 Bighas and 17 Biswas of agricultural land comprised in Khasra No.617 (4-11) & 619 (10-6) situated in the revenue estate of Village Maidan Garhi, NCT of Delhi. It is stated in the petition that the Petitioner purchased the land from Shri Hoshier Singh and Shri Mukhtiar Singh through an Agreement to Sell (ATS) and General Power of Attorney (GPA) both dated 28th June 2005. It is stated that the Petitioner has been in continuous possession and no compensation has been paid to the Petitioner or its predecessor-in-interest. It is stated that no hearing under Section 5A of the Land Acquisition Act 1894 ('LAA') was conducted by the authorities.

4. The narration in the petition reveals that notification under Section 4 of LAA was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 18th June 1985. The impugned Award No. 23/87-88 was passed on 17th June 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

5. In the counter-affidavit filed on behalf of the LAC, it is submitted that acquisition proceedings were challenged by the interested persons by filing various writ Petitioners. Interim protection was granted in W.P.(C) 424/1987 titled *Chatro Devi v. UOI & Ors.* where the stay was continued till the dismissal of the petition whereby the acquisition proceedings were upheld. It is stated that in the present case, the recorded owners have not challenged the acquisition proceedings. It is asserted that the possession of the subject land was taken and handed over to the DDA on 16th July 1987. It is also

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submitted that the Petitioner has not filed any revenue record nor any title documents to support the contention that the Petitioner or its predecessors-in-interest were ever the recorded owners of the land. On the aspect of compensation, it is submitted that Shri Hoshiar Singh and Shri Mukhtyar Singh were paid Rs.2,09,940.75 each vide cheque nos. 82766 and 82767. It is also stated that the Petitioner has purchased lands through ATS and GPA executed after the acquisition proceedings without taking prior permission of the competent authority under the Delhi Lands (Restriction of Transfer) Act, 1972. No Rejoinder has been filed by the Petitioner to the counter affidavit of the LAC.

6. The averments in the connected writ petitions are identical except for the difference in Khasra numbers. The documents relied upon are also similar.

7. A perusal of the said documents reveals that they are unregistered and 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 passed on 25th November 1980 and the Award was passed on 18th June 1985. 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 is 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. In any event, the assertion by the Petitioner that it continues to remain in possession of the land in question gives rise to a disputed question of facts. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

9. On the aspect of laches, in *Indore Development Authority v. Shailendra (2018) 3 SCC 412a* three Judge Bench of the Supreme Court has held 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 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.”

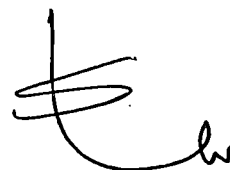
10. It may be noted here that the reference made by a Constitution Bench in *Indore Development Authority v. Shyam Verma (2018) 4 SCC 405* regarding the correctness of the aforesaid decision in *Indore Development Authority v. Shailendra (supra)* is as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (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

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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, all 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. The interim order dated 11th January 2017 in W.P. (C) 211 of 2017 which stood confirmed on 1st November 2017 and similar interim orders in the connected writ petitions are hereby vacated.



S.MURALIDHAR, J.



TALWANT SINGH, J.

JULY 24, 2019

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