

\$~R-16,17, 18 and 19

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

+ **W.P.(C) 10448/2015 & CM APPL. 26223/2015**

SURJEET SINGH

.... Petitioner

Through: Mr. Aakash Sehrawat for
Mr. Vishal Maan, Advocate

Versus

GOVT. OF NCT OF DELHI AND ORS.

.... Respondents

Through: Mr. Arun Birbal and Mr.
Sanjay Singh for DDA.
Mr. Siddharth Panda for LAC.

+ **W.P.(C) 4466/2016 & CM.APPL 18649/2016**

SANTOSH KUMAR

.... Petitioner

Through: Mr. Siddharth Mittal,
Advocate

Versus

GOVT OF NCT OF DELHI AND ORS.

.... Respondents

Through: Mr. Siddharth Panda for
LAC.

+ **W.P.(C) 2977/2016**

MAHINDER SINGH TYAGI & ORS.

.... Petitioner

Through: Ms. Jyoti Kataria, Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Arun Birbal with Mr.
Sanjay Singh for DDA.
Mr. Siddharth Panda for LAC.

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W.P.(C) 4167/2016

ARTI KAPAHI

.... Petitioner

Through: Mr. Akash Sehrawat for
Mr. Vishal Maan, Advocate.

Versus

GNCT OF DELHI AND ORS.

.... Respondents

Through: None

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
14.08.2019

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

2. For the sake of convenience, the facts in W.P. (C) 10448/2015 (*Surjeet Singh v. Govt. of NCT of Delhi*) will set out first. The prayer in the said petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioner i.e. 4 bighas and 16 biswas comprised in khasra no. 314, village Sayoorpur, New Delhi to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.”

3. The background facts are that the land in question i.e. 4 *Bighas* 16 *Biswas* in Khasra No. 314 in Village Sayoorpur, New Delhi (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 25th November, 1980. This was followed by a declaration under Section 6 dated 20th May, 1985. The Land Acquisition Collector (‘LAC’) passed an award being Award No. 10-87/88 on 14th May, 1987.

4. As far as the Petitioner is concerned, it is stated that the Petitioner’s predecessor-in-interest was the recorded owner of the subject land. In an attempt to demonstrate the ownership of the Petitioner’s predecessor-in-interest over the subject land, a copy of the *Khasra Girdawari* has been annexed with the petition. It is averred in the petition that the actual physical possession of the subject land has remained with the Petitioner.

5. In ground ‘(D)’ of the petition reference has been made to the judgment of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183* to aver that the Petitioner’s case is squarely covered by the said judgment of the Supreme Court as no compensation has been paid to the Petitioner. Reference has been made to the judgments of this Court in *Balak Ram Gupta v. Union of India (1989)*

39 DLT 233 and **Balbir Singh v. Union of India**, where the impugned notifications and Award had been quashed.

6. It is averred that the Petitioner had submitted an application to release the subject land from acquisition proceedings in view of this Court's decision in **Balbir Singh v. Union of India** (*supra*). In this context, it is stated averred that the Petitioner returned the compensation amount in full along with interest at 12 per cent. A copy of the cheque by which the aforesaid payment was made has been annexed with the petition. Thereafter, the petition refers to the enactment 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) of the said Act.

7. A counter affidavit has been filed on behalf of the LAC and the DDA. In the counter affidavit of the LAC, it is averred that possession of the subject land was taken and handed over to the beneficiary department on 14th July, 1987. In respect of compensation, it is stated that compensation of Rs.1,01,221.34 was paid to Mr. Bansi by a cheque [cheque no. 82885] dated 13th October, 1987. It is further stated that the impugned notifications and Award were challenged by interested persons by way of writ petitions before this Court, in which the Court granted interim protection to the Petitioners.

8. It is stated that in 2005 the writ petition of the Petitioner, among others, was dismissed and the validity of the acquisition proceedings upheld. It is stated that the appeal against the judgment dismissing the foregoing

petitions before the Supreme Court came to be dismissed in *Om Prakash v. Union of India (2010) 4 SCC 17*.

9. In the counter affidavit of the DDA, it is stated that the Petitioner had not brought on record any documents to show that either she or her predecessor-in-interest were or are the recorded owners of the subject land. It is accordingly submitted that the Petitioner has no *locus* to file the present petition. It is stated that possession of the subject land was taken and handed over to the DDA on 14th July, 1987.

10. As regards compensation, it is averred that a total amount of Rs.100 crores was disbursed to the LAC/L&B Department for paying land owners in 13 acquired villages, including the one in which the subject land is situated. No rejoinder has been filed by the Petitioner to either of the counter affidavits.

11. As far as the companion petitions W.P. (C) 4466/2016 and W.P. (C) 4167/2016 are concerned, the prayers and the averments are the nearly identical, only diverging as regards the description and extent of the land in the revenue estate of Village Sayoorpur, New Delhi.

12. As regards W.P.(C) 2977/2016, it is noted that the land forming the subject matter of the said petition is situated in Village Satbari and was acquired by an award being Award No. 14/87-88 dated 26th May, 1987. However the averments and the grounds advanced for seeking relief under Section 24 (2) of 2013 Act are nearly identical.

13. Counter affidavits have been filed by the LAC and the DDA identical to the one in W.P.(C) 10448/2015, denying the Petitioners' assertion of continual possession and failure to pay compensation. Counter affidavits similar to the one in W.P.(C) 10448/2015 have been filed by the LAC and the DDA in all the companion writ petitions.

14. In W.P. (C) 4466/2015, W.P. (C) 4167/2016 and W.P. (C) 2977/2016 rejoinders have been filed on behalf of the Petitioners to the counter affidavit of the LAC wherein the contents of the writ petition have been reiterated.

15. In W.P. (C) 4167/2016, the DDA has also filed an additional affidavit stating that a compensation amount of Rs.3,08,188.66 was paid to Mr. Atul Kapahi and Tarun Kapahi on 20th October, 1987 for acquisition of the land in question. It is further stated that as per the records, the compensation amount has not been returned.

16. The assertion of the Petitioners in the instance of all three petitions that possession of the lands in question has not been taken, gives rise to disputed questions of fact, which cannot be examined in the present petition. The fact further remains that there is no explanation in any of the petitions for the extraordinary delay in approaching the Court for relief.

17. 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.”

18. 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)*.

19. For the aforementioned reasons, the writ petitions are dismissed. The interim orders dated 6th November, 2015 and 17th May, 2016 in W.P. (C) 10448/2015 and W.P. (C) 4466/2016 respectively hereby stand vacated. The

applications are disposed of. In W.P. (C) 2977/2016 the interim order dated 22nd April, 2016 as confirmed on 12th December, 2017 hereby stands vacated. In W.P. (C) 4167/2016 the interim order dated 11th May, 2016 as confirmed on 12th December, 2017 stands hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 14, 2019
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