

Vivek Kumar vs Union Of India And Ors on 3 December, 2024

Author: Yashwant Varma

Bench: Yashwant Varma, Dharmesh Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 8973/2018
VIVEK KUMAR

Through:

versus

UNION OF INDIA AND ORS.

.....Respondent

Through: Mr. Vikrant N. Goyal and M

Aditya Shukla, Advs. for

1/UOI

Ms. Manika Tripathy, SC w

Mr. Ashutosh Kaushik and

Barun Dey, Advs. for DDA

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% 03.12.2024

1. This writ petition has been preferred seeking the following reliefs:

"a) Issue writ of declaration declaring the acquisition proceedings together with the impugned notifications and award (if any) to be illegal, unconstitutional and null and void and issue writ of Certiorari to quash Notification No. F.15(245)/60-LSG/L&H dated 24.10.1961 issued Under Section 4 of the Land Acquisition Act, 1894 (herein referred as to the „Act) and the subsequent declaration of Notification No. F.4(5)/63-L&H. (I) dated 06.12.1966 issued Under Section 6 of the Land Acquisition Act, 1894; and all acquisition proceedings there under including award (if passed) vis-à-vis the land Khasra No. 51/29 or Khasra No.51/29/2, area 02 Bigha 18 Biswa, in the revenue estate of village Badli, Delhi has lapsed due to the failure on the part of the respondents in not issuing the notification under Section 6 of the Land Acquisition Act within the stipulated time of one year from the date of notification U/S 4 of the Land Acquisition Act;

b) Writ, order or direction in the nature of prohibition thereby restraining the respondents, their officers, agents or their representatives or anybody claiming through them from This is a digitally signed order.

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c) Award costs of the writ petition in favour of the petitioner;

d) Any other or further writ, order or direction which this Hon'ble Court deem fit and proper in the facts and circumstances of the present case may kindly be passed in favour of the petitioner."

2. We record at the outset that when the writ petition was initially entertained on 27 August 2018, an order of status quo came to be passed and which operates to date.

3. From the disclosures made by the respondents, we find that the proceedings for acquisition under the Land Acquisition Act, 1894¹ were commenced pursuant to the issuance of a notification under Section 4 of the Act on 24 October 1961. This was followed by a declaration under Section 6 on 06 December 1966. Subsequently, as per the Land Acquisition Collector², the Award was rendered sometime in 1973-74 in terms of Award No. 40B/1973-74. Thereafter, and according to the respondents, the physical possession of the land was transferred to the Delhi Development Authority³ on 27 July 1978. It is decades thereafter that the petitioner asserts having purchased the land from the original landholders in 1993.

4. It was submitted by learned counsels for the respondents that this would constitute the first ground that would disentitle the writ petitioner from the grant of relief that is claimed.

5. We take note of the evident laches in mounting the present challenge and which would clearly constitute a stale claim as was Act LAC DDA This is a digitally signed order.

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"6. Reverting then to the challenge which stands raised to the original acquisition itself, and bearing in mind the fact that the Notification under Section 4 was issued on 27 June 1996 followed by a public notice issued on 21 November 2012 coupled with the fact that the petitioner of its own admission acquired interest only post acquisition, we find absolutely no justification to consider granting prayers (i) to (iii) as sought.

7. We bear in mind the following pertinent observations that came to be rendered by Supreme Court in *Mahavir and Ors. vs. Union of India and Ors.* Dealing with the assertion of stale claims and in the context of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Supreme Court in *Mahavir* had held as follows:

"21. The Court is duty-bound to prevent the abuse of the process of law in the cases which have been concluded several decades before, in our considered opinion, the provisions of Section 24(2) of the 2013 Act cannot be invoked in such cases of dead claims or stale claims. There are several numbers of cases coming to this Court in which matters had been contested up to this Court questioning the acquisition and the petitions have been dismissed by this Court, and acquisition has attained finality, possession was taken, the award passed. Notice had been issued under Section 12(2) of the Act tendering the awarded amount but it has not been collected by the claimants/landowners deliberately or they had refused to collect it and are not ready and willing to accept it and, thereafter, it has been deposited in the name and account of the owners in the treasury which is also deposited as per the State Government's instructions issued time to time relating to how government money is to be dealt with. The act of failure to deposit money under Section 31 after possession is taken only imposes liability to pay higher interest under Section 34. The acquisition would not lapse under the Act.

22. In our opinion, the cases in which there is deliberate action of the owners for not collecting the compensation and they do not want to receive it, Section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for W.P.(C) 15273/2024 dated 29 October 2016 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 07/12/2024 at 02:00:45 those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by wilful act. The failure to deposit in court under Section 31(1) in such cases would attract only interest as envisaged under Section 34 of the Act and the provisions of Section 24 cannot be so invoked in such cases.

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.

25. The High Court has observed that Raisina is a part of the Lutyens zone of Delhi. It is prime locality of New Delhi and government offices, etc. are located. The petitioners asked the High Court to infer and conclude that in the absence of some indication of the record being made available by them that their ancestors have not ever received any compensation. How the petitioners came to know that their ancestors had not received compensation has not been disclosed in the petition. The High Court has rightly declined to entertain such claims. The protective umbrella of Section 24 is not available to barred claims. If such claims are entertained under Section 24, it would be very- very difficult to distinguish with the frivolous claim that may be made even after tampering the records, etc. or due to non-availability of such record after so much lapse of time. Once right had been lost due to delay and laches or otherwise, it cannot be revived under provisions of Section 24 of the 2013 Act. The intendment of the 2013 Act is not to revive stale and dead claims and in the concluded case This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 07/12/2024 at 02:00:46 when rights have been finally lost. If there is delay and laches or claim is otherwise barred, it is not revived under Section 24(2) of the 2013 Act. The provision does not operate to revive legally barred claims.

26. The provision of Section 24 does not invalidate courts judgments/orders in which right have been finally lost or due to inaction is barred. Law does not permit examination of barred or totally fraudulent claims. The provisions of the law cannot be permitted to be defrauded or misused. Section 24(2) of the 2013 Act cannot be invoked in such cases. The High Court has rightly declined to entertain the writ petitions filed by the petitioners. It is not conceivable how the petitioners could file such a petition in a laconic manner relating to the prime locality at New Delhi that too for hundreds of acres with the delay of more than 100 years.

27. The prayers that have been made in writ petition are not only misconceived, there is an attempt to stop the ongoing construction activity. It has also been mentioned that government offices, etc. have come up and the Government has leased property to private parties also but still, the prayer has been made to stop the construction activity. It passes comprehension how such relief could ever be asked for. No authority had ever been approached by the petitioners or by their ancestors. As such the petition is aimed at the total misuse of the process of law. Even for a moment, such a petition could not have been received for consideration.

28. We have seen in a large number of cases that the acquisition had attained finality, compensation had been tendered but not received and development had also taken

place. The petitions are being filed in the courts under the provisions of Section 24(2) of the 2013 Act that they have not been paid any compensation. In fact, if there is any such grievance, they themselves are responsible for not collecting the compensation that was offered and tendered to them. The provision of Section 24 is not intended to apply and extend help in such cases."

6. Following, the aforesaid view as expressed and in a string of decisions rendered thereafter, a Division Bench of this Court in Baldev Singh and Ors. vs. Union of India and Ors had held:

"11. The Supreme Court has dealt with the issue of delay and laches in Mahavir v. Union of India, (2018) 3 SCC 588, in the context of the 2013 Act. The said judgment is unambiguous in emphasising that claims where there is total This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 07/12/2024 at 02:00:46 inaction are not meant to be revived by the 2013 Act.....

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12. The aforesaid Judgment has been considered by the Supreme Court in the decision of Indore Development Authority v. Shailendra reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereinunder:--

"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 This is a digitally signed order.

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(emphasis supplied)

13. This Court has also dealt with the issue of delay and laches in the case of Mool Chand v. Union of India (W.P. (C) 4528/2015) dated 17th January 2019, wherein the Court while elaborating the decision of Mahavir v. Union of India, (2018) 3 SCC 588 and Indore Development Authority v. Shailendra, (2018) 3 SCC 412, on the aspect of delay and laches, made the following observations:

"34. The question then arises whether only the points of difference between the decisions in Pune Municipal Corporation (supra) and Indore Development Authority v. Shailendra (supra) and all issues incidental thereto have been referred to the Constitution Bench? In this context it requires to be noted that although several questions were framed in Indore Development Authority v. Shailendra (supra), it is only on Question I, viz., on whether the deposit in the RD Account would amount to having tendered compensation for the purposes of Section 24 (2) of the 2013 Act, that there was a difference of opinion between the view expressed in the two decisions viz., Pune Municipal Corporation (supra) and Indore Development Authority v. Shailendra (supra).

35. The other point of difference was that arising in Yogesh Neema v. State of MP (supra) where the correctness of the decision in Sree Balaji Nagar Residential

Association v. State of Tamil This is a digitally signed order.

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Judge Bench in Indore Development
Authority v. Shailendra (supra)

overruled the decision in Sree Balaji Nagar Residential Association v.State of Tamil Nadu (supra). On this issue no subsequent Bench of the Supreme Court of co-ordinate strength appears to have taken a contrary view. It is doubtful, therefore, whether this issue would be examined by the Constitution Bench.

36. Relevant to the issue on hand, there was no difference of view qua Question III addressed in Indore Development Authority v. Shailendra (supra) i.e. "Whether section 24 of Act of 2013 revives barred and stale claims?"

On this question there was no view (much less a contrary view) expressed in Pune Municipal Corporation (supra) or for that matter in any other subsequent decision of a smaller, co-ordinate or even larger Bench of the Supreme Court. This question, therefore, was not the subject matter of reference before the Constitution Bench.

37. Consequently, this Court is of the view that although the order passed by the Constitution Bench refers to "all the aspects" being considered by the Constitution Bench, that expression would not include questioning the correctness of the decision of the three-Judge Bench in Indore Development Authority v. Shailendra (supra) as far as it holds by a unanimous opinion that Section 24 (2) of the 2013 Act cannot revive old and stale claims."

(emphasis supplied)

14. Similar orders have been passed in several other cases, such as in the case of Sushma Purthi v. Union of India (W.P. (C) 586 of 2016) dated 31st January 2019, Krishan v. Union of India (W.P. (C) 4919 of 2014) dated 25th January 2019, Mohd. Mian v. Union of India (W.P. (C) 2702/2019) dated 5th February 2019. The aforementioned cases have been dismissed by this court on the ground of delay and laches. Challenge against these judgments have been dismissed by the Supreme Court vide SLP (C) No. 11481/2019, SLP (C) No. 13423/2019 and This is a digitally signed order.

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15. Thus, in view of the foregoing discussion, the present petition is not maintainable on merits as well on the ground of delay and laches. Accordingly, the present petition is dismissed. Interim orders stand vacated."

7. We consequently find no justification whatsoever to entertain the writ petition for reliefs which are claimed and form part of clauses (i), (ii) and (iii). We are of the firm opinion that the petitioner is clearly not entitled to assail or question the acquisition which was initiated in 1996. "

6. We, consequently, find no justification to issue the writs as prayed for.

7. The writ petition fails and shall stand dismissed.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 3, 2024 sp This is a digitally signed order.

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