Before Rajesh Bindal & Gurvinder Singh Gill, JJ.

VIJENDER AND OTHERS— *Petitioners*

versus

STATE OF HARYANA AND OTHERS—*Respondents*

CWP No.1072 of 2008

November 21, 2017

Constitution of India, 1950 – Art. 226 and 227 – Land Acquisition Act, 1894 – Court misled by unscrupulous litigants – First writ petition allowed in the absence of correct and complete information from official respondents – The present writ petition is the second round of litigation – The disputed land in question was acquired earlier under S.4 and further Notification under S.6 in the year 1962, during the lifetime of the original owner – The award had been passed and compensation paid to the original owner – The present litigation was generated 40 years after the acquisition and 30 years after the death of the original owner – This was in connivance with the official respondents – The land claimed as 'Banjar' was already developed in the year 1972 and even constructions were raised thereon – The prayer for the present petitioners for demand of the said land terming it as 'Banjar' is also misconceived – Held, petition dismissed with the cost of Rs.1 lakh – It was noticed that despite acquisition of the land, announcement of the award, payment of compensation and taking over of possession, the land was still recorded in the names of the erstwhile owners – There are mutations entered subsequent to the acquisitions – Mutations of inheritance are also recorded after the acquisition is complete – It is the duty of the officers of the state to save Government properties from being encroached and further discouraging unscrupulous litigants to take benefit of the wrong entries in the record.

Held that after notices were issued, applications were filed by number of companies/firms/individuals seeking their impleadment as respondents in the writ petition claiming that they are in possession of the plots allotted by HUDA, carved out of the land in dispute.

(Para 3)

Further held that, learned counsel for the State further submitted that in the case in hand, apparently the petitioners in connivance with some of the officials of the department, have filed the

present petition for claiming the relief prayed for. No doubt, the land of the petitioners was mentioned in the notification issued on 7.10.1971 under Section 4 of the 1894 Act and it was not added in the notification issued subsequently under Section 6 of the 1894 Act, however, the land in question was, in fact, acquired earlier, where notification under Section 4 of the 1894 Act was issued on 14.8.1962 and on the same date, invoking the urgency provisions, notification under Section 6 of the 1894 Act was issued. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 19.9.1966. Ghasita, predecessor-in-interest of petitioners No. 1 to 3, who was the recorded owner of the land at that time, filed objections under Section 18 of the 1894 Act, which were referred to the court and the same were dismissed vide order dated 28.6.1968, hence, to claim that the State had taken possession of the land in question without acquisition thereof is totally misleading. When everything happened during the life time of deceased-Ghasita, even according to the stand taken by learned counsel for the petitioners, who expired on 14.1.1978, how the petitioners could think of generatinglitigation in question more than 40 years after acquisition thereof and 30 years after the death of Ghasita. The same is highly belated. Though it is sought to be claimed that the land is still lying banjar, hence, should be treated to be in possession of the recorded owner, but the fact remains that the same was developed in 1972, when industrial plots were allotted to various persons, who had even raised construction thereon.

(Para 7)

Further held that, after development, plots were carved out and allotted to number of industrial units from 1970 to 1980. The area was developed and the allottees had even raised construction. The land in question forms part of Sector 27-A at Faridabad, which is fully developed. The petitioners have concealed this fact and misled the court while claiming that the land was still lying vacant and is recorded as *banjar qadim* in the revenue record. HUDA and allottees though necessary parties but were not impleaded in the writ petition.

(Para 9)

Further held that, as it is established from the material on record that the land in question had already been acquired, even award was announced by the Collector and the recorded owner of the land at the relevant time even filed objections under Section 18 of the 1894 Act, there is no merit in the contention raised by learned counsel for the petitioners that possession of the land deserves to be handed over to

them. This was the only reason that the only prayer made in the present petition was abandoned by the petitioners.

(Para 23)

Further held that, it was with great effort by some right-minded people presently working in the office that they could get copy of the award passed by the Collector for acquisition of land when notification under Section 4 of the 1894 Act was issued on 14.8.1962. The objections filed by late-Ghasita could also be found. The record was traced out from Record Room of District Judge, Gurugram, as Faridabad was part of District Gurugram earlier.

(Para 29)

Further held that, for the reasons mentioned above, the writ petition, being totally misconceived and having been filed with oblique motive to mislead the court, deserves to be dismissed with cost of Rs. 1,00,000/-. Ordered accordingly. The amount of cost be paid equally to the State of Haryana, Town & Country Planning Department and Haryana Urban Development Authority within one month from receipt of copy of the order.

(Para 34)

Further held that, before parting with the order, we would like to comment on the working of different departments of the State. The case in hand is not in isolation, where it has been noticed that despite acquisition of land, announcement of award, payment of compensation and taking over of possession, the land is still recorded in the names of erstwhile owners thereof. Not only this, even the sale deeds are registered and mutations entered subsequent to the acquisition. In many cases, even mutations of inheritance have been recorded much after the acquisition process was complete. Still further, in number of cases, even after acquisition, khasra girdawaris are still being recorded in the names of the owners of the land before acquisition. In some of the cases, even where development activity has already been carried out, roads and other infrastructure facilities have already been developed and even the plots have been allotted either for residential, commercial or industrial purposes, but still khasra girdawaris are being recorded showing erstwhile owners to be in cultivating possession of the land. The record is totally in a mess. Instances have also come before the court where land already acquired was re-notified for acquisition only for the reason that in revenue records, it was still shown in the names of the private persons as is the case in hand. The State/authorities are lacking in their duty in up-dating the revenue record with reference to

the land which already stood acquired.

(Para 35)

Further held that, any acquisition of land is at State expenses using public money. The officers of the State are bound to protect it. It is expected that exercise shall now be carried out on war footing to complete the process to save the government properties from being encroached upon and further discouraging unscrupulous litigants to take benefit of wrong entries in the record. It shall be the duty of the beneficiary department/body concerned to ensure that entries in the revenue records have been updated. In future, without any delay, the beneficiary department/body shall be supplied with corrected updated revenue record after entering mutations, on a request to be made in this behalf immediately after process of acquisition is complete. Once entire exercise is complete, it will also show as to how much land already acquired is lying waste or under encroachments and take appropriate steps for removal of encroachments.

(Para 37)

Akshay Bhan, Senior Advocate
With Amandeep Singh Talwar, Advocate
for the petitioners.

Ankur Mittal, Additional Advocate General, Haryana
with Manoj Dhankhar, Assistant Advocate General, Haryana.

Arun Jain, Senior Advocate
with Amit Jain and
Sunil Sharma, Advocates
for respondents No. 4 and 6.

Amar Vivek, Advocate
for Haryana Urban DevelopmentAuthority.

RAJESH BINDAL, J.

(1) The case in hand is an example of the fact how certain unscrupulous litigants take the system for a ride and are able to mislead the court if correct facts are not pointed out by the authorities. In fact, in thefirst round of litigation, the writ petition was allowed only because the petitioners had been able to mislead the court in the absence of correct and complete information from the official respondents.

(2) The petitioners filed the present writ petition seeking a

direction to the State to hand over vacant physical possession of the land measuring 39 kanals and 11 marlas, situated in the revenue estate of village Mewla Maharajpur, Tehsil Ballabgarh, District Faridabad. It was pleaded that the land was owned by the predecessor-in-interest of petitioners No. 1 to 3, which was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') on 7.10.1971, however, while issuing notification under Section 6 of the 1894 Act, the land was not included, hence, no award was passed. Without payment of any compensation, the possession of land in question was taken, hence, direction was sought to return the same back to the petitioners. As in the reply filed by the State, the aforesaid facts were admitted, the writ petition was allowed on 26.5.2008 directing the respondents to hand over vacant possession of the land to the petitioners and also to pay compensation for use and occupation thereof @ Rs. 10,000/- per acre, per annum. The order passed by this Court was challenged before Hon'ble the Supreme Court by the State and Haryana Urban Development Authority (for short, 'HUDA'). Allottees of plots on the acquired land also approached Hon'ble the Supreme Court. Bunch of appeals were decided vide order passed in Civil Appeal No. 10414 of 2010—***Haryana Urban Development Authority v. Vijender and others***, on 19.11.2010. All the appeals were allowed as counsel for the private respondents before Hon'ble the Supreme Court conceded that the matters be remitted back to the High Court for fresh consideration. This is how the writ petition has again been placed before the court for hearing.

(3) After notices were issued, applications were filed by number of companies/firms/individuals seeking their impleadment as respondents inthe writ petition claiming that they are in possession of the plots allotted by HUDA, carved out of the land in dispute.

(4) With this aforesaid brief factual background of the case, learned senior counsel for the petitioners submitted that after remand of the case by Hon'ble the Supreme Court, the stand taken by HUDA in the reply filed is that the land in question was acquired vide notification dated 14.8.1962 issued under Section 4 of the 1894 Act, which was followed by notification of the same date under Section 6 of the 1894 Act. Though award was also passed, however, despite there being order passed by this Court on 29.7.2013, no record has been produced before the Court till date showing that compensation for the acquired land has been paid to the owners thereof, namely, predecessor-in-interest of petitioners No. 1 to 3. The fact that

compensation had not been paid at the time of announcementof award is even evident from the documents produced on record by the State. In the statement of calculations made under Section 19(1) of the 1894 Act, it has been specifically stated that the amount of compensation has not been paid to the landowners as the company has not yet deposited the same, the acquisition in the present case initially having been made for setting up a new textile mill. Though certain record has been produced which, according to the official respondents, has been obtained from District Court concerned, regarding decision of objections filed under Section 18 of the 1894 Act, however, even from that record or any other record, it is not established that amount of compensation was deposited by the State with Court. In the light of the aforesaid undisputed facts, the acquisition in question has lapsed as the State has not been able to establish that amount of compensation for the acquired land has been paid. He invoked provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act') to raise that argument.

(5) Learned senior counsel further submitted that as these facts had cropped up during the pendency of the writ petition, he should be permitted to raise that issue, though initially the claim made was that the land having not been acquired, the possession thereof deserves to be returned to the petitioners. He further submitted that Ghasita expired on 14.1.1978.

(6) On the other hand, learned counsel for the State submitted that writ petition in the present case was filed on 29.1.2008 by four petitioners. Originally, Ghasita was the owner of land. After his death, the land was mutated in equal shares in the names of his one son-Vijender and widow and daughter of another pre-deceased son-Bishamber. They are petitioners No. 1 to 3 in the writ petition. This fact is even established from various jamabandis produced on record by the petitioners. Petitioner No. 4- Rambir is the buyer of the land from petitioners No. 1 to 3 vide registered sale deed dated 24.1.2007. As the prayer made in the writ petition initially filed was to hand over vacant possession of the land to the petitioners, petitioners No. 1to 3, being not owners of the land even as per their own pleadings on the date of filing of the writ petition, the writ petition filed on their behalf is not maintainable. As far as petitioner No. 4 is concerned, he being subsequent buyer of the land in question, that too after acquisition, has no locus to file the present petition.

(7) Learned counsel for the State further submitted that in the case in hand, apparently the petitioners in connivance with some of the officials of the department, have filed the present petition for claiming the relief prayed for. No doubt, the land of the petitioners was mentioned in the notification issued on 7.10.1971 under Section 4 of the 1894 Act and it was not added in the notification issued subsequently under Section 6 of the 1894 Act, however, the land in question was, in fact, acquired earlier, where notification under Section 4 of the 1894 Act was issued on 14.8.1962 andon the same date, invoking the urgency provisions, notification under Section 6 of the 1894 Act was issued. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 19.9.1966. Ghasita, predecessor-in-interest of petitioners No. 1 to 3, who was the recorded owner of the land at that time, filed objections under Section 18 of the 1894 Act, which were referred to the court and the same were dismissed vide order dated 28.6.1968, hence, to claim that the State had taken possession of the land in question without acquisition thereof is totally misleading. When everything happened during the life time of deceased-Ghasita, even according to the stand taken by learned counsel for the petitioners, who expired on 14.1.1978, how the petitioners could think of generating litigation in question more than 40 years after acquisition thereof and 30 years after the death of Ghasita. The same is highly belated. Though it is sought to be claimed that the land is still lying banjar, hence, should be treated to be in possession of the recorded owner, but the fact remains that the same was developed in 1972, when industrial plots were allotted to various persons, who had even raised construction thereon. The petitioners or even the predecessor-in-interest of petitioners No. 1 to 3, namely, deceased-Ghasita cannot be said to be unaware of these facts that there had been development activity on the land owned by the petitioners and possession thereof had been taken by the State without acquisition thereof, especially when the land is located close to the city. Petitioners No. 1 to 3 had even the audacity to claim that their father was a drunkard person. He died of paralysis.

(8) He further submitted that on the one hand, the petitioners sought to take a plea that the land being *banjar qadim*, they should be treated to be in physical possession, whereas deceased-Ghasita, while filing objections under Section 18 of the 1894 Act after the acquisition of land, specifically admitted that when possession of the land was taken in the year 1962, 'henna' crop was standing, which was damaged and the Collector should have awarded compensation therefor. Both

stands are contradictory. Deceased-Ghasita claimed that there was a crop standing on the acquired land when it was acquired, whereas the stand taken by the petitioners is that it was *banjar qadim*. He further submitted that seeing the conduct of the petitioners and they having not taken the plea of lapsing of acquisition under Section 24(2) of the 2013 Act in the writ petition despite the State having fully established in the reply filed that the land was acquired way back in 1960s and the award announced by the Collector and further possession thereof taken, have not amended the writ petition, hence, they should not be allowed to raise such a plea. Vide order dated 23.8.2011, even the petitioners were also directed to explain huge delay in filing the writ petition, which they have not been able to explain.

(9) He further submitted that acquisition in the case in hand was made during joint Punjab, as the notifications under Sections 4 and 6 of the 1894 Act were issued on 14.8.1962. Even award was announced on 19.9.1996 before State of Haryana was carved out on 1.11.1966. After development, plots were carved out and allotted to number of industrial units from 1970 to 1980. The area was developed and the allottees had even raised construction. The land in question forms part of Sector 27-A at Faridabad, which is fully developed. The petitioners have concealed this fact and misled the court while claiming that the land was still lying vacant and is recorded as *banjar qadim* in the revenue record. HUDA and allottees though necessary parties but were not impleaded in the writ petition.

(10) Learned counsel for the State further referred to a statement showing development in various sectors at Faridabad as on 12.1.1977, in which details regarding amount spent and required to be sent in Sector 27-A have also been mentioned.

(11) While commenting upon the conduct of the petitioners, he further submitted that the petitioners have tried to manipulate the recordwith the State. After remand of the case by Hon'ble the Supreme Court,when the record was being collected, it was found that the same was missing from the office. DDR No. 12 dated 19.8.2011 was got registered with Police Station, City Palwal. He further submitted that the petitioners had filed application under the Right to Information Act on 24.5.2007 seeking certain information, which was more than 40 years' old. The application was smartly drafted, as otherwise such an application was not maintainable. The connivance of the then Land Acquisition Officer is evident from the fact that he responded in such a short span to that application under the Right to Information Act

and provided more than three decades old information vide communication dated 6.7.2007 stating that though the land of the petitioners was notified under Section 4 of the 1894 Act on 7.10.1971, but was not part of the notification issued under Section 6 of the 1894 Act subsequently on 8.3.1972.

(12) On a query by the Court as to whether the officer concerned is still in service, it was submitted that at the relevant time, he was nearing retirement and has since retired, otherwise there was lot to comment on his working.

(13) While referring to the judgment of Hon'ble the Supreme Court ***Mahavir and others*** versus ***Union of India and another***[1]**,** learned counsel for the State submitted that such a highly belated petition deserves to be dismissed with heavy cost, even if plea under Section24(2) of the 2013 Act is considered.

(14) Learned counsel for HUDA submitted that the petitioners approached this court seeking a direction for handing over possession of the land to them. Before filing a writ of mandamus, notice for demand of justice is mandatory. There is none in the present case despite the fact that the issue sought to be raised was more than four decades old. He further submitted that the petitioners have concealed material facts from this court. They were well within knowledge of the fact that on the land owned by them, industrial estate had already been developed and there were running industries in existence, but never thought of raising any issue that possession of some of the land owned by them had been taken without payment of compensation. He further submitted that large chunk of land was acquired vide same notification. None of other landowners raised any issue regarding even payment of compensation, that means it was paid to all the landowners. The petitioners cannot be permitted to take benefit of long delay as the records are not required to be retained for 4-5 decades.

(15) Mr. Arun Jain, learned senior counsel appearing for some of the private respondents, who are the allottees of industrial units carved out ofthe acquired land, stated that after allotment of plots to them from 1972 to 1980, they had raised construction and are running their industrial units, hence, they cannot be made to suffer on any account as sale of plots was by the State. They are the bonafide purchasers. Their title cannot be disputed by anyone at this stage. If there is any dispute between the landowners and the State, it is for them

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to sort out. Ownership or possession of the allottees cannot be questioned.

(16) Heard learned counsel for the parties and perused the paper book.

(17) The petitioners filed the present petition in this court on 29.1.2008 claiming the following relief:

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> (ii) Issue a Writ in the nature of Mandamus, directing the Respondents to hand over the vacant possession of the land measuring 39 Kanals 11 Marlas, as comprised in the Jamabandi for the year 2003-2004, situated within the revenue estate of Village Mewla Maharajpur, Tehsil Ballabgarh, District Faridabad forthwith.
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> xx xx xx"

(18) The pleaded case of the petitioners is that late-Ghasita son of Wazir was owner of the land measuring 39 kanals 7 Marlas. He died on 14.1.1978. In support, jamabandi for the year 1963-64 (Annexure P-1) has been attached. Jamabandis for the years 1968-69, 1973-74 and 1978-79have also been annexed showing Ghasita as the owner of the land. Further, jamabandis for the years 1983-84, 1988-89, 1993-94, 1998-99 and 2003-04 have been annexed showing petitioners No. 1 to 3 as owners in possession of the land in question to the extent of their shares mentioned. It is further claimed that petitioners No. 1 to 3 sold the land in question vide registered sale deed dated 24.1.2007 to petitioner No. 4 for a sum of Rs. 20,00,000/-. It has further been pleaded that vide notification issued under Section 4 of the 1894 Act on 7.10.1971, the land was sought to be acquired for planned development of Sector 27-A, Faridabad, however, when notification under Section 6 of the 1894 Act was issued on 8.3.1972, the land of the petitioners was not included therein. As per the jamabandis, the land is shown to be *banjar qadim* with recorded owners to be shown in possession. The petitioners could only find out in December, 2006 that the land was being utilised for industrial purpose, hence, vide application dated 24.5.2007, under the Right to Information Act, information was sought as to whether the land in question was ever acquired. Copies of the notifications and the award were sought. The information was received stating that the land was not acquired, as the petitioners had initially pleaded. That is the total basis for filing of the writ petition. In the written statement filed on 29.4.2008 by the same

Collector, who had supplied information under the Right to Information Act, it was admitted that initially the land in question was notified under Section 4 of the 1894 Act on 7.10.1971, however, while issuing notification under Section 6 of the 1894 Act, khasra numbers were not included.

(19) While referring to the aforesaid admitted facts, the writ petition was allowed vide order dated 26.5.2008 and the official respondents were directed to hand over vacant possession of the land to the petitioners. They were also held entitled to receive compensation for use and occupation of the land @ Rs. 10,000/- per acre, per annum.

(20) The order passed by this Court was challenged before Hon'ble the Supreme Court in number of Special Leave Petitions filed by HUDAand the allottees of industrial plots out of the land in dispute. The plea raised by HUDA before Hon'ble the Supreme Court was that though the land was acquired prior to HUDA coming into existence, however, eventually it came under its control and the relevant record regarding acquisition is available with it. It was further pleaded that after acquisition, plots had been carved out and allotted to different persons, who had even raised construction. Even those allottees had not been impleaded as parties to the writ petition. Learned counsel appearing for the private respondents before Hon'ble the Supreme Court conceded that the order be set aside and the matters be remitted back to this court for passing fresh order after impleading HUDA as one of the parties. The Special Leave Petitions were disposed of by Hon'ble the Supreme Court vide order dated 19.11.2010.

(21) In the written statement filed by HUDA dated 26.4.2011, the stand taken is that the land in question was acquired. The notification under Section 4 of the 1894 Act was issued on 14.8.1962. While invoking urgency provisions, even notification under Section 6 of the 1894 Act was also issued on the same date. The total land of village Mewla Maharajpur was 12.89 acres. Adding 8.09 acres of land of Ballabgarh, the total land acquired vide aforesaid notification was 20.98 acres. Vide rapat No. 728 dated 4.9.1962, even compensation of the entire land was determined. Possession of the land in question was taken vide rapat No. 41 dated 29.9.1967. Number of plots were allotted to various persons starting from 2.3.1972 onwards, who had even been handed over possession of the plots and they had raised construction thereon. The stand taken in the affidavit dated

7.2.2014 filed by the Collector is also that the land in question was acquired vide notification dated 14.8.1962, however, the record pertaining to announcement of award was not available.

(22) Additional affidavit of Additional Director, Urban Estate, Faridabad dated 9.8.2017 was filed in compliance to the order passed bythis court on 2.2.2017. While reiterating the history of the entire case, copy of the award passed on 19.9.1966 in pursuance to notification dated 14.8.1962 was annexed. It was claimed that though copy thereof was not available in the office, however, the same could be traced out from Record Room of the District Courts, Gurugram, as it could be found that late- Ghasita had filed objections under Section 18 of the 1894 Act, which were referred to the Court and were dismissed on 28.6.1968. This fact clearly establishes that the predecessor-in-interest of petitioners No. 1 to 3, who was the owner of the land at the time of acquisition, was well within knowledge of the acquisition and the award passed as he had even availed of the remedies available for fair determination of compensation of the land acquired by filing objections under Section 18 of the 1894 Act. He expired on 14.1.1978, nearly a decade even after the reference under Section 18 of 1894 Act was dismissed by the Reference Court. No issue was ever raised either regarding acquisition of land or payment or non-payment of the compensation. Admittedly, for the first time, the issue was raked up by the petitioners when they filed application under the Right to Information Act on 24.5.2007, nearly three decades after the death of Ghasita. The purpose behind seems to be to initiate litigation taking benefit of in-action or non- maintenance of record by the State in a proper manner by taking a calculated risk.

(23) As it is established from the material on record that the land in question had already been acquired, even award was announced by the Collector and the recorded owner of the land at the relevant time even filed objections under Section 18 of the 1894 Act, there is no merit in the contention raised by learned counsel for the petitioners that possession ofthe land deserves to be handed over to them. This was the only reason that the only prayer made in the present petition was abandoned by the petitioners.

(24) Despite the aforesaid document having been produced on record by the official respondents, the petitioners have not taken any step to claim any other relief, than what was claimed in the writ petition as from therecord, it was established that the land in question stood acquired and even award had been announced by the Collector.

After acquisition, the area was developed. Industrial plots were carved out and allotted to various persons.

(25) Once the petitioners were caught in their own web while trying to mislead the court, alternate plea was sought to be taken that only the record pertaining to award of the Collector or filing of objections by late- Ghasita has been produced and there being no record produced regarding payment of compensation, the acquisition in question has lapsed in view of Section 24(2) of the 2013 Act. Though such a plea cannot be permitted to be raised in the absence of any pleadings, especially when the petitioners had already been found to be on a wrong foot trying to mislead the court, but still we thought it appropriate to deal even that argument of the petitioners so as to close the litigation, otherwise the petitioners would have generated more avoidable litigation.

(26) To deal with the issue, it would be imperative to reiterate certain facts again. Late-Ghasita was the recorded owner of the land when notification under Section 4 of the 1894 Act was issued on 14.8.1962. Urgency provisions were invoked. Even notification under Section 6 of the 1894 Act was issued on the same date. Award was announced by the Collector on 19.9.1966. While filing objections under Section 18 of the 1894 Act, he categorically admitted that possession of the land had been taken by the authorities. As the crops standing thereon were destroyed, hence, he deserved to be compensated for the same as well. It was not stated by him in the objections that amount of compensation, as assessed by the Collector, has not been paid to him.

(27) Taking benefit of wrong entries in the revenue record, where predecessor-in-interest of petitioners No. 1 to 3, namely, Ghasita was shown as owner of the land despite acquisition thereof, petitioners No. 1 to 3 subsequently even got mutation of inheritance entered in their names after death of Ghasita. Not only this, thereafter petitioners No. 1 to 3 sold the land in question to petitioner No. 4 and entry to that effect was also made in the revenue record. Despite sale of land by petitioners No. 1 to 3, once they had claimed that the land was not even acquired, to petitioner No. 4, they still joined as petitioners in the writ petition to claim that possession of the land be handed over to them. They did not have any right, title or interest in the land after they had sold the land if their plea was bonafide. Nothing has come on record to show that any issue was raised by petitioner No. 4 with petitioners No. 1 to 3 that he has been cheated by them by selling the

land, which had either been acquired or possession of which could not be delivered. This establishes the fact that they all are in league and conniving with each other with ulterior motive.

(28) In the process, involvement of certain officers/officials in the office of the Collector can also be not ruled out, as information which was more than 40 years old at the time when petitioners No. 1 to 3 filed application under the Right to Information Act, was supplied to them within a short span and when other record was sought to be located in office, the same was found to be misplaced for which DDR No. 12 was got registered on 19.8.2012.

(29) It was with great effort by some right-minded people presently working in the office that they could get copy of the award passed by the Collector for acquisition of land when notification under Section 4 of the 1894 Act was issued on 14.8.1962. The objections filed by late-Ghasita could also be found. The record was traced out from Record Room of District Judge, Gurugram, as Faridabad was part of District Gurugram earlier.

(30) The officials in District Court at Gurugram need appreciation that they could trace out such an old record and supply copy thereof, which could enable the State to prove that a fraudulent plea was sought to be taken by the petitioners herein, as a result the case of the petitioners collapsed like a pack of cards. They could not utter even a single word with reference to the pleadings in the writ petition.

(31) There was deliberate mis-statement made by the petitioners in the writ petition that they came to know in December, 2006 that the land owned by them was being utilised for industrial purpose, as certain plots had been allotted to industrial units. The definite stand of the official respondents as well as private respondents, being allottees of the plots, is that allotments were made way back from 1972 to 1980 and even construction had been raised by industrial units. The land is located just in the city. It is not some isolated piece of land located in a jungle, where the petitioners did not know about the status thereof. Registration of sale-deed dated 24.1.2007 by petitioners No. 1 to 3 in favour of petitioner No. 4 is also a fraudulent act, as no prudent person will buy any piece of land without even seeing its actual condition. The rate at which the sale deed of 39 kanals and 7 marlas of prime land in Faridabad has been recorded for a total sale consideration of Rs. 20 lacs is another example of it. Apparently, even the authorities were keeping their eyes shut as

even the Collector's rate may be more than the sale consideration shown in the sale deed.

(32) As far as Section 24(2) of the 2013 Act is concerned, the plea now sought to be taken is that no record had been produced by the State that compensation for the acquired land was paid at the time of acquisition, hence, the acquisition has lapsed. First of all, the petitioners have to stand on their own legs. They cannot plead for roving enquiry into any allegation. In the case in hand, even those are missing. The petitioners cannot even plead that compensation was not paid for the acquired land, as they were not even the owners at the time of acquisition, which was recorded in the name of late-Ghasita, who died 12 years after the announcement of award by the Collector and about a decade after objections under Section 18 of the 1894 Act was dismissed by the Reference Court. The petitioners cannot be permitted to raise such a plea more than four decades thereafter that amount of compensation was not paid. Such a plea cannot be matter of enquiry after such a huge delay. Similar plea was deprecated by Hon'ble the Supreme Court in ***Mahavir and others' case*** (supra) by observing as under:

> "21. 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 lachesbut 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.
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> 22. 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.

23. The High Court has observed that Raisina is a part of Lutyens zone of Delhi. It is prime 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 Act of 2013. The intendment of Act 2013 is not to revive stale and dead claims and in the concluded case 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.

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."

(33) In view of our aforesaid discussions, we do not find any merit even in this contention raised by the petitioners at the time of argumentsthat acquisition has lapsed in view of Section 24(2) of the 2013 Act, even though not even pleaded in the writ petition.

(34) For the reasons mentioned above, the writ petition, being

totally misconceived and having been filed with oblique motive to mislead the court, deserves to be dismissed with cost of Rs. 1,00,000/-. Ordered accordingly. The amount of cost be paid equally to the State of Haryana, Town & Country Planning Department and Haryana Urban Development Authority within one month from receipt of copy of the order.

(35) Before parting with the order, we would like to comment on the working of different departments of the State. The case in hand is not in isolation, where it has been noticed that despite acquisition of land, announcement of award, payment of compensation and taking over of possession, the land is still recorded in the names of erstwhile owners thereof. Not only this, even the sale deeds are registered and mutations entered subsequent to the acquisition. In many cases, even mutations of inheritance have been recorded much after the acquisition process was complete. Still further, in number of cases, even after acquisition, khasra girdawaris are still being recorded in the names of the owners of the land before acquisition. In some of the cases, even where development activity has already been carried out, roads and other infrastructure facilities have already been developed and even the plots have been allotted either for residential, commercial or industrial purposes, but still khasra girdawaris are being recorded showing erstwhile owners to be in cultivating possession of the land. The record is totally in a mess. Instances have also come before the court where land already acquired was re-notified for acquisition only for the reason that in revenue records, it was still shown in the names of the private persons as is the case in hand. The State/authorities are lacking in their duty in up-dating the revenue record with reference to the land which already stood acquired.

(36) In fact, what transpired during hearing of the cases before the court is that the record is not being properly maintained in the State, which is resulting in avoidable litigation by unscrupulous litigants, like the case in hand. Many times, they succeed as well, as the petitioners had been in the first round of litigation, when complete record could not be traced or deliberately not produced in court. Earlier also, this court in R.F.A. No. 411 of 2004—***Mahinder Pal alias Mohinder Kumar*** versus ***The State of Haryana and others, decided on 17.9.2015*** issued directions in the following terms:

> "Before parting with the judgment, this Court would like to direct that the State authorities shall prepare a master plan at district level showing acquisition of land by

different departments at different times providing all particulars. It has been informed by the learned State counsel that land is not acquired by one particular department. He submitted that in theState of Haryana, the land is acquired by the Urban Development Department, Department of Industries & Commerce, Department of Irrigation, Department of Agriculture, Department of PWD (B&R), Department ofPower, etc. Every department, who independently acquires the land, shall be duty bound to inform the District Collector about the same. As and when required, copy of the master plan shallbe produced before the Court in cases pertaining to assessment of compensation for the acquired land. It will also be useful for the State to take care of the acquired land from encroachments. It will also be helpful for the Courts for proper assessment of compensation of the land."

(37) Apparently nothing has been done till date, though more than two years have expired. Any acquisition of land is at State expenses using public money. The officers of the State are bound to protect it. It is expected that exercise shall now be carried out on war footing to complete the process to save the government properties from being encroached upon and further discouraging unscrupulous litigants to take benefit of wrong entries in the record. It shall be the duty of the beneficiary department/body concerned to ensure that entries in the revenue records have been updated. In future, without any delay, the beneficiary department/body shall be supplied with corrected updated revenue record after entering mutations, ona request to be made in this behalf immediately after process of acquisition is complete. Once entire exercise is complete, it will also show as to how much land already acquired is lying waste or under encroachments and take appropriate steps for removal of encroachments.

(38) The matter shall be put up in court to review the progress on 14.3.2018.

Payel Mehta