

MAHAVIR & ORS.

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v.

UNION OF INDIA & ANR.

(Special Leave Petition (C) No. 26281 of 2017)

SEPTEMBER 08, 2017

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[ARUN MISHRA AND
MOHAN M. SHANTANAGOUDAR, JJ.]

Delay/Laches:

Writ petition u/Art. 226 of Constitution – Taking plea that the compensation for the 100 acres land acquired in Raisina Lutyen’s zone of New Delhi which had taken place in 1911-12, had not been paid and therefore, in view of s.24 of Right to Fair Compensation Act of 2013, the land acquisition proceedings had lapsed – Petitioners also prayed for restraint on construction activity and from creation of third party interest – High Court dismissed the petition – On Special Leave Petition, held: The case is liable to be dismissed on the ground of delay and laches – A stale claim after 105 years of acquisition cannot be entertained – The provisions of s.24(2) of 2013 Act cannot be invoked in cases of dead claims or stale claims – The claims are also clouded and hence become doubtful – Law does not permit examination of barred or totally fraudulent claims – Provisions of law cannot be permitted to the defrauded or misused – In the present case law has not only been misused but also abused – Therefore, the petition is liable to be dismissed with costs of Rs. 50,000/- – Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 – s.24 – Land Acquisition Act, 1894.

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Rabindranath Bose & Ors. v. Union of India & Ors.
(1970) 1 SCC 84 : [1970] 2 SCR 697 – followed.

Tamil Nadu Housing Board, Chennai v. M. Meiyappan & Ors. (2010) 14 SCC 309 : [2010] 12 SCR 1184;
Jasveer Singh & Anr. v. State of Uttar Pradesh & Ors. (2017) 6 SCC 787; *U.P State Jal Nigam & Anr. v. Jaswant Singh & Anr.* (2006) 11 SCC 464 : [2006] 8 Suppl. SCR 916; *Dharappa v. Bijapur Co-operative*

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- A *Milk Producers Societies Union Ltd. (2007) 9 SCC 109 : [2007] 5 SCR 729; State of Karnataka v. Laxuman (2005) 8 SCC 709 : [2005] 4 Suppl. SCR 535; Addl. Special Land Acquisition Officer, Bangalore v. Thakoredas, Major and Ors. (1997) 11 SCC 412 – relied on.*
- B *Delhi Development Authority v. Sukhbir Singh (2016) 16 SCC 258 : [2016] 5 SCR 227; Pune Municipal Corporation v. Harakchand Misirimal Solanki (2014) 3 SCC 183 : [2014] 1 SCR 783; Hissar Improvement Trust v. Smt. Rukmani Devi and Anr. AIR 1990 SC 2033;*
- C *Shri Kishan Das & Ors. v. State of U.P. & Ors. AIR 1996 SC 274 : [1995] 3 Suppl. SCR 584 – held inapplicable.*

Case Law Reference

D	[2016] 5 SCR 227	held inapplicable	Para 8
	[2014] 1 SCR 783	held inapplicable	Para 8
	AIR 1990 SC 2033	held inapplicable	Para 10
	[1995] 3 Suppl. SCR 584	held inapplicable	Para 11
E	[2010] 12 SCR 1184	relied on	Para 14
	(2017) 6 SCC 787	relied on	Para 14
	[2006] 8 Suppl. SCR 916	relied on	Para 15
	[1970] 2 SCR 697	followed	Para 16
F	[2007] 5 SCR 729	relied on	Para 17
	[2005] 4 Suppl. SCR 535	relied on	Para 18
	(1997) 11 SCC 412	relied on	Para 18

G CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) No. 26281 of 2017

From the Judgment and Order dated 10.04.2017 of the High Court of Delhi at New Delhi in W.P. (C) No. 129 of 2017.

Dr. Surat Singh, Brajesh Kumar Singh, Amit P. Shaunak, Saurabh Agarwal, Advs. for the Petitioners.

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The following Order of the Court was delivered:

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ORDER

1. Delay condoned.

2. There is a gross abuse of the process of law reflected in the instant case. In Raisena, Lutyen's zone of New Delhi the acquisition took place and awards were passed thereto in 1911-1912. A writ petition was filed by the petitioners before the High Court after 105 years later, urging that compensation has not been paid; due to operation of the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 (for short, "the 2013 Act"), the land acquisition has lapsed.

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3. In the writ petition filed by the petitioners in the High Court they claimed to be the fourth Generation of Nathu son of Kaalu. It was averred that Government passed the award Nos.55 and 56 in the year 1911-1912. The predecessors in interest of the petitioners were cultivators in the capacity of Gair Morusi tenants. As per the prevalent policy, at the relevant time, cultivators and tenants were entitled to 50 per cent of the compensation. About 100 acres of the land of the predecessors had been acquired in the village Raisina. A declaration under section 6 of the Land Acquisition Act, 1894 (for short, "the Act") was issued. Nathu and Kaalu were held entitled to compensation in the award Nos.55 and 56 which was passed. In the awards P-2 and P-3, which have been placed on record, the year 1911 and 1912 had been mentioned, not the actual date on which said awards had been passed.

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4. It was further averred in the petition that the predecessors of the petitioners have not taken the compensation. The petitioners were running from pillar to post to get their rights and they have approached various political leaders/authorities for their help but it was to no avail. Now, the Act of 2013 has come into force. The provisions of section 24(2) of the 2013 Act provides that where an award under section 11 of the Act has been made before five years or more but compensation has not been paid, the said proceedings shall be deemed to have lapsed.

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5. It was further averred that though, the physical possession had been taken by the Government and passed over to the Government offices and leased out to private parties as such, the award Nos.55 and 56 are illegal and inoperative and the land acquisition process stands lapsed.

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A 6. It was further submitted that Government would allot the land
in question and create third party interest. If that is done, petitioners
shall suffer irreparable loss and damage. Thus, the Government should
be restrained from creating third party interest. Certain occupants are
raising construction and third party interest are likely to be created and
B therefore order maintaining *status quo* has to be made regarding the
nature, title and possession of the land including restraint on construction
activity. Prayer has also been made to restore the land of the petitioners'
ancestors to petitioners and alternatively to provide a similar land with
the same market value to them.

C Section 24 of the Act of 2013 is extracted hereunder:

24. Land acquisition process under Act No.1 of 1894 shall be
deemed to have lapsed in certain cases,-

(1) Notwithstanding anything contained in this Act in any case
of land acquisition proceedings initiated under the Land
D Acquisition Act, 1894,-

(a) where no award under section 11 of the said Land Acquisition
Act has been made, then, all provisions of this Act relating to the
determination of compensation shall apply; or

(b) where an award under said section 11 has been made, when
E such proceedings shall continue under the provisions of the said
Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case
of land acquisition proceedings initiated under the Land
Acquisition Act, 1894 (1 of 1894), where an award under the
said section 11 has been made five years or more prior to the
commencement of this Act but the physical possession of the
land has not been taken or the compensation has not been paid
the said proceedings shall be deemed to have lapsed and the
appropriate Government, if it so chooses, shall initiate the
proceedings of such land acquisition afresh in accordance with
F the provisions of this Act:

G Provided that where an award has been made and
compensation in respect of a majority of land holdings has not
been deposited in the account of the beneficiaries, then, all
beneficiaries specified in the notification for acquisition under
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section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act. A

7. The High Court while dismissing the writ petition by the impugned order had observed:

“4) The question is perhaps a unique one – i.e. the parties claim to be aggrieved to approach this Court, waking up like Rip Van Winkle in Indian parlance or what may be called a ‘Kumbkarna’ lapse of time. In other words, is it open to the petitioner or a set of petitioners to resuscitate grievance several generations later to claim the protection of a later law? Such claims were never under contemplation when the acquisition was resorted to. B C

5) It is not disputed that the lands over which the petitioner lays claim were a part of Raisina village which was acquired and on which much of Lutyens Delhi has been built. In these circumstances as to whether indeed the petitioner’s ancestors were paid compensation or not can be made a subject of inquiry over 104 years later having regard to a later enactment and right which flow directly from it. In the opinion of the Court, the award clearly has to be negative. The petitioners are asking this Court to infer and conclude that in the absence of some indication from the records made available by them that their ancestors did not ever receive any compensation. No contemporary record in the form of letters, protest by them or any other communication stating that compensation was not disbursed or reference to civil proceedings for the release of the amounts or seeking decree have been relied upon by the petitioners. In these circumstances, if the petitioners are to be allowed to raise such grievances the courts would be open to claims from each succeeding generation, which may say that the previous generation had not received their just dues. Such claims cannot be adjudicated, as they are barred.” D E F

8. The petitioners in the petition have referred to the decision of this Court in *Delhi Development Authority v. Sukhbir Singh*(2016) 16 SCC 258. In the aforesaid case, possession was taken over in 2000 and the compensation was deposited by the DDA with the Land Acquisition Collector in the year 2002. There was a dispute as to who will receive compensation, therefore, compensation could neither be paid nor tendered. G

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- A In said case, reliance was placed upon the decision in *Pune Municipal Corporation v. Harakchand Misirimal Solanki*(2014) 3 SCC 183. This Court held that the deposit in court was not made as per sections 31(2) of the Act, Hence proceedings lapsed by virtue of section 24 of the 2013 Act.
- B Section 31 and Section 34 of the Act are extracted hereunder:
- “31. Payment of compensation or deposit of same in court.—
- (1) On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next subsection.
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- (2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the court to which a reference under Section 18 would be submitted;
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- Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:
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- Provided also that no person who has received the amount otherwise then under protest shall be entitled to make any application under section 18:
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- Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.
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- (3) Notwithstanding anything in this section, the Collector may, with the sanction of [appropriate Government] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing subsection shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof. A

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34. Payment of interest— When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited. C

[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]” D

9. Section 31(1) of the Act requires tender of compensation which is tendered in terms of section 12 of the Act. Section 12 provides a mode of informing claimants as to compensation. Section 31(2) of the Act requires Collector to deposit amount in court in case it is not received by the persons interested or there is some dispute. Under the Act, the deposit is required only with a view to avoiding liability to pay interest. Deposit in the Court is not a payment made to the owner. It is only to avoid liability to pay interest that too at higher rates on the failure of deposit. F
 Once it is deposited the liability to pay interest ceases. Section 34 of the Act makes it clear that if the compensation is not deposited on or before taking the possession of the land, interest at the rate of nine per cent shall follow from the time of so taking the possession until compensation so paid or deposited in the court. The proviso to section 34 makes it clear that in case it is not so deposited in court as per section 31(1) within a period of one year from the date of taking possession interest at the rate of 15 per cent per annum shall be payable. Thus, it is clearly provided under section 34 that interest at the rate of 15 per cent per annum shall be payable from the date of expiry of the said period of one G H

A year till it is so paid or deposited. As soon as the deposit is made under Section 31(2) of the Act, liability ceases to make the payment of interest on the compensation amount so deposited.

10. This court in *Hissar Improvement Trust v. Smt. Rukmani Devi and Anr.* AIR 1990 SC 2033 has considered the purport of section 31 and 34 and laid down that in case the amount is not deposited in the court as per the provisions of section 31 of the Act, interest is liable to be paid as provided in section 34. However, it is clear that due to non-deposit of the amount under section 31, acquisition would not lapse under the Act. This court has laid down thus:

C “5. It cannot be gainsaid that interest is due and payable to the landowner in the event of the compensation not being paid or deposited in time in Court. Before taking possession of the land, the Collector has to pay or deposit the amount awarded, as stated in Section 31, failing which he is liable to pay interest as provided in Section 34.

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E 7. We make it clear that insofar as the landowner is concerned, his right to be compensated is enforceable against the State. It is the liability of the Collector in terms of the relevant provisions to pay the amount awarded, together with interest in the event of the amount not being paid in time. The liability of the appellant-Trust arising under its agreement with the Government for payment in respect of the property acquired is a matter on which we express no view.”

F 11. This court in *Shri Kishan Das & Ors. v. State of U.P. & Ors.* AIR 1996 SC 274, dealt with the award of interest under section 34. This court has observed that liability to pay the interest arises when the possession of the acquired land was taken and the amount was not deposited. In case delay was due to petitions filed by the claimants in the High Court and Supreme Court and the compensation has been deposited thereafter, payment of interest at the higher rate cannot be directed in view of the provisions contained in section 34. This court observed:

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3. Shri B.B. Sanyal, learned senior counsel for the appellants, contended that the award was made on March 22, 1983, though the acquisition was made in September 1976. Therefore, the appellants should be compensated by payment of interest @ 12

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per cent per annum. In support of his contention, he placed reliance on the decision of this Court in Ram Chand and Ors. v. Union of India and Ors. (1994) 1 SCC 44 : (1993 AIR SCW 3479) and in particular on paragraph 16 of the judgment. It is seen that in Ram Chander's case even after the dismissal of the writ petitions by this Court in Aflatoon v. Lt. Governor of Delhi [1975] 4 SCC 285 : (AIR 1974 SC 2077), no action was taken by the Land Acquisition Officer to pass the award. Thus, till 1980-81 no award was made in respect of any of the acquisitions. Under these circumstances, this Court had directed the Government to pay interest @ 12 per cent on the amount awarded to compensate the loss caused to the appellants therein. In this case it is seen that though the notification was issued in September 1976, the writ petitions came to be filed in the High Court immediately thereafter in 1977 in the High Court and obviously further proceedings were stayed. Accordingly, the Land Acquisition Officer delayed the award. After the dismissal of the writ petitions, the appellants came to this Court and obtained status quo. Obviously, the Land Acquisition Officer was not in a position to pass the award immediately. Thereafter it would appear that he passed the award on March 22, 1983. Section 34 of the Act obligates the State to pay interest from the date of taking possession under the unamended Act @ 6 per cent and after the Amendment Act 68 of 1984 at different rates mentioned therein. The liability of the State to pay interest ceases with the deposit made as per Section 34 of the Act. Further liability would arise only when the court on reference under Section 18 enhances the compensation under Section 28 of the Act. Similarly, in an appeal under Section 54 of the Act if the appellate court further increases the compensation, then again similar obligation under Section 28 arises.

4. In the light of the operation of the respective provisions of Sections 34 and 28 of the Act, it would be difficult to direct payment of interest. In fact, Section 23(1-A) is set off for loss in cases of delayed awards to compensate the person entitled to receive compensation; otherwise, a person who is responsible for the delay in disposal of the acquisition proceedings will be paid premium for dilatory tactics. It is stated by the learned Counsel for the respondents that the amount of interest was also

A calculated and total amount was deposited in the account of the appellants by the Land Acquisition Officer after passing the award, i.e., on November 15, 1976 in a sum of Rs. 20,48,615. Under these circumstances, the liability to pay interest would arise when possession of the acquired land was taken and the amount was not deposited. In view of the fact that compensation was deposited as soon as the award was passed, we do not think that it is a case for us to interfere at this stage. (emphasis supplied)

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C We need not go further in the case as to the effect of section 34 of the Act.

D 12. In the instant case, no relief can be granted on the basis of decision of the *Sukhbir Singh*(supra) in which decision of this Court in *Pune Municipal Corporation*(supra) has been relied on or any other decision following *Pune Municipal Corporation*(supra) referred to in the decision of this Court in *Sukhbir Singh*(supra).

E 13. In the instant case, the case is liable to be dismissed on the ground of delay and laches. By no stretch of the imagination, the principles enumerated in Section 24 of the Act of 2013 can be permitted to invoke. We are not inclined to entertain such a stale claim after 105 years of acquisition.

F 14. The catena of decisions of this court indicates that delay and laches are enough to destroy the remedy as laid down by this court in *Tamil Nadu Housing Board, Chennai v. M. Meiyappan & Ors.*(2010) 14 SCC 309, and *Jasveer Singh & Anr. v. State of Uttar Pradesh & Ors.*(2017) 6 SCC 787.

G 15. In *U.P. State Jal Nigam & Anr. v. Jaswant Singh & Anr.* (2006) 11 SCC 464 this court has observed that in determining whether there has been delay so as to amount to laches in case petitioner/claimant is aware of the violation of the right, where a remedy by his conduct tantamount to waiver of it or where, by his conduct or neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.

H 16. The Constitution Bench of this court in *Rabindranath Bose & Ors. v. Union of India & Ors.*(1970) 1 SCC 84 has observed:

“32 ...we are of the view that no relief should be given to petitioners who, without any reasonable explanation, approach this Court under Article 32 of the Constitution after inordinate delay. The highest Court in this land has been given Original Jurisdiction to entertain petitions under Article 32 of the Constitution. It could not have been the intention that this Court would go into stale demands after a lapse of years. It is said that Article 32 is itself a guaranteed right. So it is, but it does not follow from this that it was the intention of the Constitution makers that this Court should discard all principles and grant relief in petitions filed after inordinate delay.” (emphasis supplied)

17. This court in *Dharappa v. Bijapur Co-operative Milk Producers Societies Union Ltd.*(2007) 9 SCC 109 considered the question of delay and laches in the matter of raising the dispute under Industrial Dispute Act, 1947. Though no limitation period is prescribed under the Industrial Disputes Act, this court has held that if on account of delay, a dispute has become stale or ceases to exist, the reference should be rejected. It is also held that lapse of time results in losing the remedy and the right as well. The delay would be fatal if it has resulted in material evidence relevant to adjudication being lost or rendered unavailable. When belated claims are considered as stale and non-existing for the purpose of refusing or rejecting a reference under section 10(1)(c) or in spite of no period of limitation is prescribed this court laid that it will be illogical to hold that the amendment to the I.D. Act inserting section 10(4-a) prescribing the time limit of six months should be interpreted as reviving all stale and dead claims. This court has further observed that section 10(4-A) clearly requires that a workman who wants to directly approach the Labour Court, should do so within six months from the date of communication of the order. This court has laid down that when a new remedy or relief is provided by a statute, such a transitional provision is made to ensure that persons who are given a special right, do not lose it for want of adequate time to enforce it, though they have a cause of action or right as on the date when the new remedy or relief comes into effect. This court has further observed that section 10(4-A) does not, therefore, revive non-existing or stale or dead claims but only ensures that claims which were live, to be filed, by applying the six-month rule in section 10(4-A). This court has laid down thus:

“29. This Court while dealing with Sections 10(1)(c) and (d) of the ID Act, has repeatedly held that though the Act does not

A provide a period of limitation for raising a dispute under Section 10(1)(c) or (d), if on account of delay, a dispute has become stale or ceases to exist, the reference should be rejected. It has also held that lapse of time results in losing the remedy and the right as well. The delay would be fatal if it has resulted in material evidence relevant to adjudication being lost or rendered unavailable (vide *Nedungadi Bank Ltd. v. K.P. Madhavankutty*; *Balbir Singh v. Punjab Roadways*⁸; *Asstt. Executive Engineer v. Shivalinga*⁹ and *S.M. Nilajkar v. Telecom Distt. Manager*¹⁰).
B When belated claims are considered as stale and non-existing for the purpose of refusing or rejecting a reference under Section 10(1)(c) or (d), in spite of no period of limitation being prescribed, it will be illogical to hold that the amendment to the Act inserting Section 10(4-A) prescribing a time-limit of six months, should be interpreted as reviving all stale and dead claims.
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D 30. The object of Section 10(4-A) is to enable workmen to apply directly to the Labour Court for adjudication of disputes relating to termination, without going through the laborious process of seeking a reference under Section 10(1) of the ID Act. The legislative intent was not to revive stale or non-existing claims. Section 10(4-A) clearly requires that a workman who wants to directly approach the Labour Court should do so within six months from the date of communication of the order. Then come the words "or the date of commencement of the Industrial Disputes (Karnataka Amendment) Act, 1987, whichever is later": The reason for these words is obvious. In cases where the cause of action arose prior to 7-4-1988, some additional time had to be provided to make the provisions effective. Let us take the example of a workman who had received the termination order on 10-10-1987. If Section 10(4-A), which came into effect on 7-4-1988, had merely stated that the application had to be filed within six months from the date of communication, he had to file the application before 10-4-1988, that is hardly three days from the date when the amendment came into effect. The legislature thought that workmen should be given some reasonable time to know about the new provision and take steps to approach the Labour Court. Therefore, all workmen who were communicated orders of termination within six months prior to 7-4-1988 were given the benefit of uniform six months' time from 7-4-1988,
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irrespective of the date of expiry of six months. When a new remedy or relief is provided by a statute, such a transitional provision is made to ensure that persons who are given a special right, do not lose it for want of adequate time to enforce it, though they have a cause of action or right as on the date when the new remedy or relief comes into effect.

31. Section 10(4-A) does not therefore revive non-existing or stale or dead claims but only ensures that claims which were live, by applying the six-month rule in Section 10(4-A) as on the date when the section came into effect, have a minimum of six months' time to approach the Labour Court. That is ensured by adding the words "or the date of commencement of the Industrial Disputes (Karnataka Amendment) Act, 1987, whichever is later" to the words "within six months from the date of communication to him of the order of discharge, dismissal, retrenchment or termination". In other words all those who were communicated orders of termination during a period of six months prior to 7-4-1988 were deemed to have been communicated such orders of termination as on 7-4-1988 for the purpose of seeking remedy. Therefore, the words "within six months from the date of commencement of the Industrial Disputes (Karnataka Amendment) Act, 1987, whichever is later" only enables those who had been communicated order of termination within six months prior to 7-4-1988, to apply under Section 10(4-A)."

(emphasis supplied)

18. This court in *State of Karnataka v. Laxuman* (2005) 8 SCC 709 considered the question where no time limit is fixed under section 18(3) of Land Acquisition Act, 1894 (as amended in Karnataka State). No time limit was fixed by the statute to apply before the court but since the application is to the court, though under a special enactment of Article 137, the residuary article of the Limitation Act, 1963 would be attracted and the application has to be made within three years of the application relying on the *Addl. Special Land Acquisition Officer, Bangalore v. Thakoredas, Major, and Ors.* (1997) 11 SCC 412. This court has observed:

"9. As can be seen, no time for applying to the court in terms of subsection (3) is fixed by the statute. But since the application is to the court, though under a special enactment, Article 137, the

- A residuary article of the Limitation Act, 1963, would be attracted and the application has to be made within three years of the application for making a reference or the expiry of 90 days after the application. The position is settled by the decision of this Court in *Addl. Spl. Land Acquisition Officer v. Thakoredas I*. It was held: (SCC p. 414, para 3)
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- “3. Admittedly, the cause of action for seeking a reference had arisen on the date of service of the award under Section 12(2) of the Act. Within 90 days from the date of the service of the notice, the respondents made the application requesting the Deputy Commissioner to refer the cases to the civil court under Section 18. Under the amended subsection (3)(a) of the Act, the Deputy Commissioner shall, within 90 days from 1-9-1970 make a reference under Section 18 to the civil court which he failed to do. Consequently, by operation of subsection 3(b) with the expiry of the aforesaid 90 days, the cause of action had accrued to the respondents to make an application to the civil court with a prayer to direct the Deputy Commissioner to make a reference. There is no period of limitation prescribed in subsection (3)(b) to make that application but it should be done within limitation prescribed by the Schedule to the Limitation Act. Since no article expressly prescribed the limitation to make such application, the residuary article under Article 137 of the Schedule to the Limitation Act gets attracted. Thus, it could be seen that in the absence of any special period of limitation prescribed by clause (b) of sub-section (3) of Section 18 of the Act, the application should have been made within three years from the date of expiry of 90 days prescribed in Section 18(3)(b) i.e. the date on which cause of action had accrued to the respondent claimant. Since the application had been admittedly made beyond three years, it was clearly barred by limitation. Since, the High Court relied upon the case in *Municipal Council²* which has stood overruled, the order of the High Court is unsustainable.”

This position is also supported by the reasoning in *Kerala SEB v. T.P. Kunhaliumma³*. It may be seen that under the Central Act sans the Karnataka amendment there was no right to approach the Principal Civil Court of original jurisdiction to

compel a reference and no time-limit was also fixed for making such an approach. All that was required of a claimant was to make an application for reference within six weeks of the award or the notice of the award, as the case may be. But obviously the State Legislature thought it necessary to provide a time-frame for the claimant to make his claim for enhanced compensation and for ensuring an expeditious disposal of the application for reference by the authority under the Act fixing a time within which he is to act and conferring an additional right on the claimant to approach the civil court on satisfying the condition precedent of having made an application for reference within the time prescribed.

10. A statute can, even while conferring a right, provide also for a repose. The Limitation Act is not an equitable piece of legislation but is a statute of repose. The right undoubtedly available to a litigant becomes unenforceable if the litigant does not approach the court within the time prescribed. It is in this context that it has been said that the law is for the diligent. The law expects a litigant to seek the enforcement of a right available to him within a reasonable time of the arising of the cause of action and that reasonable time is reflected by the various articles of the Limitation Act.”

19. 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/land owners 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.

A 20. 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 those who deliberately had not received it and litigated for
B decades for quashing of proceedings avoiding to receive compensation
by willful 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.

C 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,
D 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.

E 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.

F 23. The High Court has observed that Raisina is a part of the
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
G 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
H 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. A
B

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. C

24. 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. D
E

25. 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. 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. F
G

26. We are not at all inclined to entertain the instant petition. The Special leave petition is liable to be dismissed, and the same is hereby dismissed with cost as in the facts and circumstances of the case we find that there is not only misuse but an abuse of the process of law. H

- A Therefore, we impose the costs of Rs.50,000/- (Rupees Fifty Thousand Only) which is to be deposited by the petitioners with the Supreme Court Bar Association in the welfare fund of Advocates within four weeks from today and compliance be reported to this Court.

Kalpana K. Tripathy

SLP dismissed.