2023 INSC 619

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8072 OF 2010

State of Orissa & anr. ... Appellants

Versus

Laxmi Narayan Das (Dead)
thr. LRs & ors. ... Respondents

J U D G M E N T

Rajesh Bindal, J.

1. The order dated October 30, 2009 passed by the Orissa High Court in Writ Appeal No. 108/2009 is under challenge in the present appeal. Vide aforesaid order, the order passed by the Single Judge in W.P.(C) No. 9069 of 2008 dated 21.11.2008, was reversed.

FACTS

2. Briefly the facts of the case available on record are that a writ petition was filed by Laxmi Narayan Das (dead) through LRs, Satynarayan Das, Birenchi Narayan Das (respondents herein) on 27.6.2008 challenging the order passed by the Settlement Officer in Settlement Appeal No. 537/90 dated 01.03.1990. The writ petition was filed more than 18 years after the impugned order was passed. The grievance raised was that the objections filed by the writ petitioners during the course of settlement were not considered by the authority concerned and the land was recorded in the name of General Administration Department (GAD). Liberty was granted to the writ petitioners to file representation to the GAD. The grievance was that the representation was filed, however, the same has not been decided. The stand of the learned counsel for the State was also recorded that when final record of rights was published, it was open to the writ petitioners to file appropriate revision application under Section 15(b) of the Orissa Survey & Settlement Act, 1958 (for short, 'the 1958 Act'). The same was not filed. There is no scope for interference in the writ jurisdiction. It was further submitted that the observation was made by the authority in the order referred to in the writ petition that the petitioners can make representation to the GAD against the final record

of rights, if so advised. The writ petition was dismissed. Being aggrieved by the same, intra court appeal was filed by the respondents. The matter was taken in a different direction altogether. In fact, with the observations made by the Division Bench the record of right, which was prepared way back in the year 1962, was set aside. The direction was given for consideration of the representation of the appellants before the High Court and allot them a suitable plot in exchange of their stitiban/sthitiban land.[1] It is the aforesaid order which has been impugned by the State.

ARGUMENTS

3. Learned counsel for the State submitted that the record of rights in the case in hand was finalised way back in the year 1962. The land at that time was not in occupation of anyone rather wild bushes were existing on the land. No objection was raised by the land owners. The appeal was filed in the year 1990, which was disposed of on 1.3.1990. Since it was claimed that the land was stitiban plot, it was observed that claim could be raised with the GAD. Accordingly, the entry in the name of the appellant was not possible. After passing of

[1] The expression 'Stitiban/*Sthitiban*' signifies the status of a settled raiyat or homestead of a raiyat (i.e., an agriculturist). See, *Abdulla Kabir v. Md. Nasiruddin*, (1989) 2 SCC 361. The expression 'Raiyat' is defined as an individual who acquires land primarily for purposes of cultivation under Section 3(3)(d) of the Orissa Government Land Settlement Act, 1962 and Section 2(26) of the Orissa Land Reforms Act, 1960.

the aforesaid order, the respondents kept quiet. A civil suit came to be filed in the year 2003 for declaration. It was pleaded therein that 0.601 decimal of the land was in possession of the Reserve Bank of India (for short, 'RBI') where the staff quarters had been constructed. It was on account of the allotment thereof by the GAD. However, finally the relief sought in the suit was that the plaintiffs therein who are the respondents herein, had become the owners by way of adverse possession of the land, as mentioned in Schedule 'B' attached to the Suit and further a declaration was sought that they are owners in possession of the land as mentioned in the Schedule 'A' and their possession needs to be protected. This included the land which was admittedly allotted to the Reserve Bank of India and on which staff quarters had already been constructed. The aforesaid suit was dismissed as withdrawn by the respondents on 28.7.2007. Permission was sought to file a fresh suit. However, the same was specifically declined by the court.

4. Thereafter, the respondents filed a writ petition before the High Court in 2008 praying for a direction to the respondents therein to record the land in the name of the writ petitioners, which was transferred to the Reserve Bank of India. It was 0.518 decimals which was allotted to Reserve Bank of India and 0.083 decimals which was allotted to someone else from plot no. 1506 and 1507 (P), respectively

of Mauza Jaidev Vihar. A direction was also sought that in terms of the order dated 1.3.1990 passed by the Settlement Officer, the claim of the petitioner for allotment of an equal alternative land be considered. The land already in possession of the writ petitioners forming part of plot no. 1474 (P) Mauza Jaidev Vihar be considered and allotted in exchange. While filing the writ petition, the writ petitioners were silent about the civil suit filed by them praying for a similar relief, which was dismissed as withdrawn without liberty to file a fresh suit, what to talk of writ petition.

5. Learned counsel for the appellant further argued that the writ petition was disposed of by the Single Bench while holding that there is no scope for interference in the order of Settlement Officer, and in case the petitioner has any grievance, he may take appropriate steps against the final record of rights which was prepared way back in the year 1962. The Division Bench of the High Court had gone wrong in issuing a direction for allotment of an alternative plot in exchange of the alleged stitiban land belonging to the respondents when their right was yet to be established.

6. The record of rights was prepared in the year 1962 and there was no challenge thereto. For the first time, the respondents filed an appeal in the year 1990 which was disposed of on 1.3.1990.

Thereafter, the respondents kept quiet for a period of more than 13 years before they filed the suit. After the same was dismissed as withdrawn on 28.7.2007 without any liberty to institute fresh suit, the writ petition was filed in June 2008 claiming the same reliefs. The Division Bench of the High Court while granting relief to the respondents has indirectly set aside the record of rights which was prepared way back in the year 1962 without there being any challenge to the same in the writ petition. To that extent, the order passed by the Division Bench is totally illegal. Unless record of rights is corrected, no right can accrue to the respondents. In fact, the respondents were fighting a luxury litigation.

7. It is the admitted case of the respondents themselves that they are in possession of the part of the plot number 1506, some part of which was allotted to the Reserve Bank of India. Meaning thereby, that they were aware of the developments which were taking place ever since the record of rights was prepared. In any case, they cannot deny filing of Settlement Appeal and thereafter civil suit and the writ petition. In fact, it is a case of forum hunting. Without availing appropriate remedy against the finalisation of record of rights, in case the respondents were having any grievance, they kept quiet for decades together, hence no relief would be admissible to them at this stage.

8. It was further submitted that even in the appeal filed against the order passed by the learned Single Judge, there was no mention of the civil suit filed by the respondents and its withdrawal. It only transpired at the time of hearing before the Court that there was a civil suit filed by the respondents. However, this fact was not given due weightage by the Division Bench and the same was just brushed aside. Otherwise, they could not file the civil suit or the writ petition claiming the same relief. Though it was sought to be claimed by the respondents that the matter is pending consideration with the Government and is likely to be compromised as the reason for withdrawal of the suit. However, the learned Civil Judge had not referred to any reason as it had simpliciter permitted the respondents to withdraw the suit without permission to file afresh. The observation by the Division Bench that withdrawal of the suit was with consent of both parties that the respondents will be allotted an alternative plot was neither here nor there.

9. On the other hand, learned counsel for the respondents submitted that the appeal was filed in the year 1990, raising the issue regarding wrongful preparation of record of rights. The same was disposed of on 1.3.1990 with the observation that the claim regarding the plot of land belonging to the respondents which was allotted to the

Reserve Bank of India for construction of staff quarters, representation could be made to the GAD. Ever since then, representations were being made. However, when nothing came out, the civil suit came to be filed. He further submitted that the civil suit was filed with three prayers, firstly that the plaintiffs therein be declared owners of the portion of the land in their possession as they had become the owners thereof by way of adverse possession. Secondly, declaration was sought that they are the owners in possession of the land forming part of Schedule annexed with the suit and lastly, an injunction be issued against the defendants therein not to interfere in their possession of the suit land. As during the pendency of the suit, the representations made by the petitioner therein for allotment of alternative land against the land of the respondents which was allotted to the Reserve Bank of India and other persons were being actively considered by the Government therefore, the suit was withdrawn. Official notings were recorded at different levels wherein positive notes were prepared and opined that the respondents are entitled to allotment of land in lieu of the land belonging to the respondents which was allotted to the Reserve Bank of India. However, as there was no positive result, the respondents did not have any option but to file writ petition seeking direction to the concerned authorities to decide their claim. The learned Single Judge

had failed to consider this issue in right spirit. However, in appeal, the High Court had considered the genuine claim of the respondents and granted the relief. Learned counsel for the respondents was fair enough to state that the land in dispute is same even though the identification numbers have changed with the passage of time in the revenue records.

DISCUSSION

10. Heard learned counsel for the parties and perused the relevant records.

11. The case in hand is a classic case in which a litigant had been able to mislead the courts and authorities at different levels to put life into his stale claim.

12. The facts of the case having chequered history are being summed up in the following table, for better understanding, when elaborated in latter part of the judgment.

Date	Comments
-	Record of rights are finalised in accordance with Section 12 of the Orissa Survey & Settlement Act, 1958.

-	Under Section 12 of the 1958 Act draft record of rights is published.
-	Assistant Settlement Officer considers the objections filed by any aggrieved person with reference to any error in the draft record of rights.
-	An appeal filed under Section 12-A of the 1958 Act, within thirty days of the order passed by the Assistant Settlement Officer under Section 12 of the 1958 Act is maintainable to the Settlement Officer.
-	Final record of rights is published under Section 12B of the 1958 Act.
-	Under Section 15(b) of the 1958 Act, an application lies to the Board of Revenue against an appellate order passed under Section 12-A of the 1958 Act within one year from the date of final publication of record of rights under Section 12-B of the 1958 Act.
-	The respondents pleaded in the writ petition that they did raise objections at the time of the finalization of the record of rights, but the same were not considered.
1962	Record of rights was finalised.

January 1990	Appeal was filed by the respondents before the Settlement Officer in terms of Section 12-A of the 1958 Act No such appeal was maintainable, after the publication of final record of rights, as the only remedy available was under Section 15(b) of the 1958 Act for filing an application before the Board of Revenue within one year from the date of final publication of record of rights, which was in the year 1962.
01.3.1990	The aforesaid appeal despite not being maintainable, was entertained and disposed of by the Settlement Officer leaving it open to the respondents to raise their claim with the General Administrative Department. It was specifically noted in the aforesaid order that Plot No.1506 had already been given to the Reserve Bank of India for construction of staff quarters, which already stood constructed.
2003	A Civil Suit No.48 of 2003 was filed by the plaintiffs before the Court wherein, firstly, a declaration of title was sought by virtue of adverse possession. Secondly, an injunction was sought against the GAD. Despite not having possession over the land already allotted to Reserve Bank of India, the plaintiffs

	therein in the suit claimed their possession on that portion of land.
28.07.2007	The aforesaid Civil Suit was dismissed as withdrawn. Though permission was sought to file a fresh suit. However, no such permission/liberty was granted. It was pleaded in the application that the matter is pending for consideration with the Government.
June 2008	Writ Petition (C) No. 9069/2008 was filed by the respondents, challenging the allotment of land to Reserve Bank of India; claiming allotment of land equivalent to the land given to Reserve Bank of India; for regularising illegal possession of land with the plaintiffs in exchange of land allotted to Reserve Bank of India.
21.11.2008	The aforesaid Writ Petition was disposed of by the High Court The Order recorded that challenge therein was to the order passed by the Settlement Officer on 01.3.1990. The statement of the Counsel for the petitioners therein was recorded that objections were filed during the course of settlement of record of rights, which were finalised without appreciating the same.

	The stand of the counsel for the State was recorded that, presently the land was recorded in the name of Reserve Bank of India. After its transfer to the Bank, staff quarters had already been constructed thereon. Subsequently, the writ petition was disposed of finally, while granting liberty to the writ petitioners to take appropriate steps against the final record of rights, if so advised. Meaning thereby that, no relief as such was granted to the petitioners, as was not even admissible after such a huge delay.
30.10.2009	Single Judge order was challenged before the Division Bench of the High Court in Writ Appeal No.108 of 2009 which was disposed of granting various reliefs to the respondents. This is the order impugned in the present appeal.

13. From the narration of the facts, in the aforesaid table, it is evident that the respondents including their predecessors-in-interest have been sleeping over their rights for decades. The process for finalisation of record of rights must have been started much prior to 1962, as final publication of rights was made at that time. It was stated before the learned Single Bench, that the objections were filed before

finalization of the record of rights. If those objections were not considered at the time of final publication of record of rights in terms of Section 12-B of the 1958 Act, the appropriate remedy was to file an application before the Board of Revenue within one year of the final publication of record of rights under Section 12-B of the 1958 Act.

14. The record of rights was finalised way back in the year 1962. It was admitted by the respondents that a part of the same plot number, regarding which issue has been raised with reference to its allotment to the Reserve Bank of India by the GAD, is in possession of the respondents. Meaning thereby that when the record of rights was prepared, the respondents had enough knowledge of the fact that there is some error in the same. The claim is that the status of the property in possession of the respondents was stitiban property and their predecessors-in interest were in possession thereof. It was claimed that there was no reason for its transfer in the name of Forest Department.

15. Twenty-eight years after the finalisation of record of rights, an appeal was filed before the Settlement Officer, which was not maintainable as that stage had been crossed. As the land was recorded in the name of Forest Department, notice was issued to the Forest Department. The Settlement Appeal was disposed of on 1.3.1990. It was

noticed in the order that the changed identity number of part of land was plot number 1506/1, a part of which had already been given to the Reserve Bank of India for construction of staff quarters and the quarters had been constructed thereon. It was observed in the order that in case the same is stitiban plot, the appellant before the Settlement Officer could raise a claim with the GAD. The prayer before the Settlement Officer to record their names against plot number 1506 was declined.

16. Thereafter, the respondents slept over the matter for more than a decade. After 13 years, a civil suit was filed in the year 2003. Even at the time of filing of the civil suit i.e., 13 years after the disposal of the appeal by the Settlement Officer and more than four decades after the record of rights was finalised, the respondents did not challenge the final record of rights. In fact, if they had challenged, the same would not have been maintainable. The appropriate remedy was not filing a civil suit. Even the allotment of land to Reserve Bank of India was not challenged.

17. It was pleaded in the civil suit that the plaintiffs therein are in possession of certain portion of the government land on which they are residing since 1965, hence, they have become owners thereof by way of adverse possession. The civil suit was filed with the following prayers: -

"(a) Let it be declared that the Plaintiffs are in peaceful continuous and uninterrupted physical possession over 'B' Schedule property consisting of Plot No.1474 (Part) & Plot No. 1493 (Part) under Khata No.1427 (GA) admeasuring an area of Ac.0.430 decimals as mentioned in Schedule 'B' with hostile animus to the true knowledge of Defendant and thereby perfected their title, by way of adverse possession, since from the year 1965 for more than statutory period.

(b) Let it be declared that the plaintiffs are the lawful owner in possession having right title and interest over 'A' Schedule property and the Defendant, has no manner of right to interfere with the peaceful possession of the Plaintiffs not only over 'A' schedule property but also over 'B' schedule property.

(c) Let the Defendant his henchmen contractor agents and officials be restrained by way of permanent injunction, with direction not to interfere or part with the possession of the Plaintiffs over Plot No.1474 (Part) and Plot No.1493 (Part) under Khata No.1427 (GA) i.e.'B' Schedule Property, which being amalgamated to the plots of the Plaintiffs mentioned in Schedule 'A' are very much inside the boundary of the Plaintiffs.

(d) ……

(e) ……"

18. A perusal of the prayer (b) in the suit shows that the plaintiffs therein had not approached the court with clean hands. On the one hand, it was admitted in the plaint, that part of the suit land, which is allegedly belonging to the plaintiffs therein, had been allotted by the GAD to the Reserve Bank of India and staff quarters had been constructed thereon but still it was sought to be declared that the plaintiffs are owners in possession of that portion of land and their possession need to be protected. Furthermore, permanent injunction was also sought against the defendants from interfering in their possession. The Reserve Bank of India, which was admittedly in possession of the part of the land was not impleaded as a defendant in the suit. The aforesaid suit was dismissed as withdrawn on 28.07.2007. The Court passed the following order:-

> "This order arises out of the petition filed by the plaintiff to withdraw the suit.
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> Perused the petition, objection, plaint averment so also the W.S. filed by the defendant.
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> I have already heard on the withdrawal petition from both the sides.
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> Considering the fact and circumstances of the case, the petition for withdrawal is party allowed.

The suit is withdrawn but no permission as sought for by the plaintiff to file fresh suit is allowed."

19. In the application for withdrawal of suit, the plaintiffs stated that the negotiations are going on with the GAD, hence, they sought permission to withdraw the suit with liberty to file the same again. However, no permission was granted by the Court to file fresh suit.

20. When the respondents were not able to put life to their stale claim, a writ petition was filed bearing W.P.(C) No. 9069 of 2008 before the Orissa High Court. A perusal of the paper book of the writ petition shows that there was no mention of filing of a civil suit claiming the same relief and withdrawal thereof. Rather simpliciter a case was sought to be made out on the basis of order dated 01.03.1990 passed in Settlement Appeal No. 537/90 by the Settlement Officer. May be at the cost of repetition, it is reiterated here that even in the civil suit, the reliance was on the aforesaid order dated 01.03.1990 passed by the Settlement Officer. The writ petition was disposed of on 21.11.2008. The stand of the writ petitioners was that they had filed objections during the course of settlement of record of rights, however, still without appreciating the objections, the land in dispute was recorded in the name of GAD. This statement of fact by the counsel for the writ

petitioners shows that they were aware of the finalisation of record of rights way back in the year 1962. However, still they kept quiet and did not avail of the appropriate remedy available to them against the same, in case they were aggrieved by it. Certain office notings which the respondents obtained under the Right to Information Act, 2005, have been placed on record with reference to the allotment of alternative land in exchange. These notings were from the year 2001 onwards. As to whether these notings confer any right on the respondents without there being any order communicated to the respondents, will be dealt with in the latter part of the judgment.

21. The Division Bench of High Court without appreciating any of the legal issues, the delay in filing the writ petition despite knowledge of the facts to the writ petitioners or their predecessors-in-interest, went on to disturb the final records of rights which were finalised way back in the year 1962. Direction was issued to consider the representation of the writ petitioners to allot a suitable plot of land in exchange of their stitiban land.

22. The issues which require consideration by this Court in the present appeal would be :

(1) Effect of delay and laches in availing the remedies against the final publication of record of rights.

(2) Maintainability of writ petition when the civil suit filed for same relief was withdrawn without liberty to file fresh one and on the concealment of material facts from the Court.

(3) Whether a party can rely on notings in the Government files without having communication of any order on the basis thereof ?

1. EFFECT OF DELAY AND LACHES IN AVAILING THE REMEDIES AGAINST THE FINAL PUBLICATION OF RECORD OF RIGHTS

23. Before applying the principles laid down by this Court on delay and laches. We deem it appropriate to refer the legal position.

24. In **P. S. Sadasivaswamy v. State of Tamil Nadu, (1975) 1 SCC 152**, it was laid down that a person aggrieved by an order of promoting a junior over his head should approach the court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where

the Courts cannot interfere in a matter after the passage of a certain length of time, but it should be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for the relief.

25. In **New Delhi Municipal Council v. Pan Singh and others, (2007) 9 SCC 278**, this Court has opined that though there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, yet ordinarily a writ petition should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the court, as stated earlier, took note of the delay and laches as relevant factors and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.

26. In **State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others, (2013) 12 SCC 179,** this Court, while considering the issue regarding delay and laches observed that even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time. Relief to a person, who puts forward a stale claim can certainly be

refused relief on account of delay and laches. Anyone who sleeps over his rights is bound to suffer.

27. In **Chennai Metropolitan Water Supply and Sewerage Board and others v. T. T. Murali Babu, (2014) 4 SCC 108**, this Court opined as under:-

> "13. First, we shall deal with the facet of delay. In Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others, AIR 1969 SC 329, the Court referred to the principle that has been stated by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp, (1874) 5 PC 221, which is as follows:-
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> > "Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in

> either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

15. In State of M. P. and others etc. etc. vs. Nandlal Jaiswal and others etc. etc., AIR 1987 SC 251, the Court observed that it is well settled that power of the High Courtto issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. It has been further stated therein that if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a

belated stage is likely to cause confusion and public inconvenience and bring in injustice.

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the *lis* at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant ‘‘a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. … … A court is not expected to give indulgence to such indolent persons- who compete with `Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the

said ground alone the writ court should have thrown the petition overboard at the very threshold."

28. In **State of Jammu & Kashmir vs. R. K. Zalpuri and others, (2015) 15 SCC 602**, this Court considered the issue regarding delay and laches while initiating a dispute before the Court. It was opined that the issue sought to be raised by the petitioners therein was not required to be addressed on merits on account of delay and laches.The relevant paras thereof are extracted below:-

"27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim "Deo gratias - thanks to God".

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, need less to emphasise, did not justify adjudication. It deserves to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and

cultivated the feeling that he could freeze time and forever remain in the realm of constant present."

29. The aforesaid view was followed by this Court in **Union of India and others v. Chaman Rana, (2018) 5 SCC 798**.

30. Subsequently, a Constitution Bench of this Court in **Senior Divisional Manager, Life Insurance Corporation of India Ltd. and others v. Shree Lal Meena, (2019) 4 SCC 479**, considering the principle of delay and laches, opined as under:-

> "36. We may also find that the appellant remained silent for years together and that this Court, taking a particular view subsequently, in Sheel Kumar Jain v. New India Assurance Company Limited, (2011)12 SCC 197 would not entitle stale claims to be raised on this behalf, like that of the appellant. In fact the appellant slept over the matter for almost a little over two years even after the pronouncement of the judgment.
>
> 37. Thus, the endeavour of the appellant, to approach this Court seeking the relief, as prayed for, is clearly a misadventure, which is liable to be rejected, and the appeal is dismissed."

31. In **Bharat Coking Coal Ltd. and others v. Shyam Kishore Singh - (2020) 3 SCC 411**, the issue regarding the delay and laches was

considered by this Court while dismissing the petition filed belatedly, seeking change in the date of birth in the service record.

32. The issue of delay and laches was considered by this Court in **Union of India and others vs. N. Murugesan and others, (2022) 2 SCC 25.** Therein it was observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The Court laid down two essential factors i.e. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant paras 20 to 22 of the above mentioned case are extracted below:

> **"20.** The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by

way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word ''laches'' is derived from the French language meaning ''*remissness and slackness*''. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.''

33. Finally, in paras 37 and 38, it was observed as under :

> "37. We have already dealt with the principles of law that may have a bearing on this case. … there was an unexplained and studied reluctance to raise the issue ....
>
> 38. ….Hence, on the principle governing delay, laches … Respondent No. 1 ought not to have been granted any relief by invoking Article 226 of the Constitution of India.".

34. If the aforesaid principles of law are applied in the facts of the case in hand from the table of list of dates as available in para no. 12, it is evident that there is huge delay on the part of the respondents to avail of their appropriate remedy. Record of rights was finalised in the year 1962. As admitted in the writ petition, objections were filed by the respondents or their predecessors-in-interest before that. Remedy, after publication of final record of rights, was revision under Section 15(b) of the 1958 Act, to be filed within one year. No remedy was availed of. Nearly three decades after finalisation of record of rights, application was filed before the Settlement Officer, which was not maintainable after final record of rights is published. When no relief was granted by the Settlement Officer, the respondents kept quite for 13 years before filing a civil suit in the year 2003. It was dismissed as withdrawn in the year 2007. The writ petition was filed in

the year 2008, which is subject matter of dispute in the present appeal. The aforesaid facts show that the writ petition to claim relief was filed after 46 years of finalisation of record of rights, which was highly belated. Hence, the respondents were no entitled to any relief.

2. Maintainability of writ petition when the civil suit filed for same relief was withdrawn without liberty to file fresh one and on the concealment of material facts from the Court.

35. From the facts on record, it is evident, that the respondents had filed a civil suit in January 2003, claiming that the plaintiffs therein be declared owner of the land which is in their adverse possession since 1965 as mentioned in Schedule 'A', annexed to the plaint. The second prayer was that the plaintiffs therein be declared lawful owner in possession of the land as mentioned in Schedule 'B' and the defendant therein had no right to interfere with the peaceful possession of the plaintiffs. The property, as mentioned in Schedule 'B', included the same which was the subject matter of consideration at the time of finalisation of record of rights. Part of which was allotted to the Reserve Bank of India on which staff quarters had been constructed long back

as has been noticed in Order dated 01.03.1990 passed by the Settlement Officer.

36. After withdrawal of the aforesaid suit, the writ petition was filed to call upon the respondents to show cause as to how the land owned by the writ petitioners was allotted to the Reserve Bank of India. The writ petitioners be allotted land equivalent to the same in terms of the observation made in the order dated 01.03.1990 passed by the Settlement Officer. Both the aforesaid prayers are co-related. In fact, the real dispute started after the finalisation of the record of rights. Reference in the writ petition was made to the order passed by the Settlement Officer on 01.03.1990. Implementation of the aforesaid order, by which apparently no relief was granted to the petitioner, was sought. The fact remains that at the time of the filing of the writ petition, it was not mentioned that the writ petitioners had already filed a civil suit claiming the same relief which was dismissed as withdrawn without liberty to file fresh one for the same cause of action.

37. On the question, as to whether after the withdrawal of a suit claiming the same relief without having permission to institute fresh one for the same relief, a writ petition will be maintainable before the Court, the guidance is available from the judgment of this Court in **M.J. Exporters Private Limited v. Union of India and others (2021) 13**

SCC 543, wherein the principle of constructive res judicata was applied. The case concerns a litigant who sought to file a fresh writ petition after withdrawal of the earlier writ petition filed for the same relief without permission to file fresh one. The Court held that the principles contained in Order 23, Rule 1 CPC are applicable even in writ proceedings. Para 15 thereof is extracted below:

> "15. In these circumstances, we feel that when this issue was raised and abandoned in the first writ petition which was dismissed as withdrawn, the principles of constructive res judicata which are laid down under Order 23 Rule 1 of the Code of Civil Procedure, 1908, and which principles are extendable to writ proceedings as well as held by this in Sarguja Transport Service v. STAT, (1987) 1 SCC 5."

38. Having regard to the principles laid down in M.J. Exporters Private Limited (supra), in our view, applying the principles of constructive res judicata, the present writ petition filed by the respondents after withdrawal of the civil suit, was not maintainable, in the sense that it ought not to have been entertained. In case the respondents still wanted to justify filing of the writ petition, they should have at least disclosed complete facts and then justify filing of the writ petition.

39. The writ petition also ought to be dismissed on the ground of concealment of material facts regarding filing and withdrawal of the civil suit claiming the same relief. Neither in the writ petition nor in the appeal against the order passed in the writ petition, the respondents disclosed the filing of civil suit and withdrawal thereof. It only transpired only that at the time of the hearing of the appeal.

40. As to how a litigant who conceals material facts from the Court has to be dealt with, has been gone into by this Court, time and again in plethora of cases and the consistent opinion is that, he is not entitled even to be heard on merits.

41. In **Abhyudya Sanstha Vs. Union of India and others, (2011) 6 SCC 145**, this Court, while declining relief to the petitioners therein, who did not approach the court with clean hands, opined asunder:

> "**18.** … In our view, the appellants deserve to be non suited because they have not approached the Court with clean hands. The plea of inadvertent mistake put forward by the learned senior counsel for the appellants and their submission that the Court may take lenient view and order regularisation of the admissions already made sounds attractive but does not merit acceptance. Each of the appellants consciously made a

statement that it had been granted recognition by the NCTE, which necessarily implies that recognition was granted in terms of Section 14 of the Act read with Regulations 7 and 8 of the 2007 Regulations. Those managing the affairs of the appellants do not belong to the category of innocent, illiterate/uneducated persons, who are not conversant with the relevant statutory provisions and the court process. The very fact that each of the appellants had submitted LPASW No. 82/2019 Page 7 application in terms of Regulation 7 and made itself available for inspection by the team constituted by WRC, Bhopal shows that they were fully aware of the fact that they can get recognition only after fulfilling the conditions specified in the Act and the Regulations and that WRC, Bhopal had not granted recognition to them. Notwithstanding this, they made bold statement that they had been granted recognition by the competent authority and thereby succeeded in persuading this Court to entertain the special leave petitions and pass interim orders. The minimum, which can be said about the appellants is that they have not approached the Court with clean hands and succeeded in polluting the stream of justice by making patently false statement. Therefore, they are not entitled to relief under Article 136 of the Constitution. This view finds support from plethora of precedents.

42. In **Hari Narain v. Badri Das AIR 1963 SC 1558**, **G. Narayanaswamy Reddy (Dead) by Lrs. and another v. Govt. of Karnataka and another (1991) 3 SCC 261** and plethora of other cases, this Court denied relief to the petitioner/appellant on the ground that he had not approached the Court with clean hands. In **Hari Narain v. Badri Das (supra)**, the Court revoked the leave granted to the appellant and observed:

> "It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Article 136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value andit LPASW No. 82/2019 Page 8 would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the hearing of the appeal the SupremeCourt is satisfied that the material statements made by the appellant in his application for special leave are inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterises as misrepresentations of facts contained in the petition for special leave, the Supreme

> Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked."

43. In **G. Narayanaswamy Reddy v. Govt. of Karnataka's case** (supra), this Court while noticing the fact regarding the stay order passed by the High Court which prevented passing of the award by the Land Acquisition Officer within the prescribed time period was concealed and in the aforesaid context, it observed that :

> "2. … Curiously enough, there is no reference in the special leave petitions to any of the stay orders and we came to know about these orders only when the respondents appeared in response to the notice and filed their counter- affidavit. In our view, the said interim orders have a direct bearing on the question raised and the non-disclosure of the same certainly amounts to suppression of material facts. On this ground alone, the special leave petitions are liable to be rejected. It is well settled in law that the relief under Article 136 of the Constitution is discretionary and a petitioner who approaches this Court for such relief must come with frank and full disclosure of facts. If he fails to do so and suppresses material facts, his application is liable to be dismissed. We accordingly dismiss the special leave petitions."

44. In **Dalip Singh v. State of Uttar Pradesh and others (2010)**

2 SCC 114, this Court noticed the progressive decline in the values of life and observed:

> "1. For many centuries Indian society cherished two basic values of life i.e."satya" (truth) and "ahinsa" (non- violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.
>
> 2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not

entitled to any relief, interim or final." *(emphasis supplied)*

45. In **Moti Lal Songara Vs. Prem Prakash @ Pappu and another (2013) 9 SCC 199**, this Court, considering the issue regarding concealment of facts before the Court, observed that "court is not a laboratory where children come to play'', and opined as under:

> "**19.** The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the accused-respondent is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the revisional court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Any one who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud with the court, and the maxim supressio veri, expression faisi , i.e., suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the revisional court. It can be stated with certitude that the accused-respondent tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

> **20.** The High Court, as we have seen, applied the principle "when infrastructure collapses, the superstructure is bound to collapse". However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand."
>
> *(emphasis supplied)*

46. In a recent judgment, **ABCD Vs. Union of India and others (2020) 2 SCC 52**, this Court in a matter where material facts was concealed, while issuing notice to the petitioner therein, exercising its suo-motu contempt power, observed as under :

> "**15.** Making a false statement on oath is an offence punishable under Section 181 of the IPC while furnishing false information with intent to cause public servant to use his lawful power to the injury of another person is punishable under Section 182 of the IPC. These offences by virtue of Section 195(1)(a)(i) of the Code can be taken cognizance of by any court only upon a proper complaint in writing as stated in said Section. In respect of matters coming under Section 195(1)(b)(i) of the Code, in **Pushpadevi M. Jatia v. M.L. Wadhawan etc., (1987) 3 SCC 367** prosecution was directed to be launched after primafacie satisfaction was recorded by this Court.

47. It has also been laid down by this Court in **Chandra Shashi v. Anil Kumar Verma (1995) 1 SCC 421** that a person who makes an attempt to deceive the court, interferes with the administration of justice and can be held guilty of contempt of court. In this case, a husband who had filed a fabricated document to oppose the prayer of his wife seeking transfer of matrimonial proceedings was found guilty of contempt of court and was sentenced to two weeks imprisonment. It was observed as under:

> "**1.** The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned.
>
> **2.** Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deterothers from indulging in similar acts which shake the faith of people in the system of administration of justice.
>
> * * *

14. The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would,in any case, tend to interfere with the same. This would definitely be so if a fabricated documents is filed with the aforesaid mens rea. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt."

48. In **K.D. Sharma Vs. Steel Authority of India Limited and others** (2008) 12 SCC 481 it was observed:

"**39.** If the primary object as highlighted in **Kensington Income Tax Commrs., (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)** is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse

to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court."

49. In **Dhananjay Sharma vs. State of Haryana and others (1995) 3 SCC 757,** the filing of a false affidavit was the basis for initiation of action in contempt jurisdiction and the concerned persons were punished for the same.

50. If the case of the respondents is considered on factual material, in view of the settled position of law, as has been referred in previous paras, it is evident that the respondents waived off their right to challenge the record of rights which stood finalised way back in the year 1962 and till date there has been no challenge made to the same. Indirectly relief was sought by filing appeal before the Settlement Officer, which was not maintainable; civil suit which was ultimately withdrawn and then filed the writ petition and thereafter writ appeal which is the subject-matter of the present proceedings.

3. WHETHER A PARTY CAN RELY ON NOTINGS IN THE GOVERNMENT FILE WITHOUT HAVING COMMUNICATION OF ANY ORDER ON THE BASIS THEREOF ?

51. The aforesaid legal issue was considered by this Court in **Mahadeo and others v. Sovan Devi and others, (2022) SCC OnLine SC 1118.** It was pointed out therein, that an inter-departmental communications are merely in the process of consideration for an appropriate decision. These cannot be relied upon as a basis to claim any right. Mere notings in the file do not amount to an order unless an order is communicated to a party, thus, no right accrues. Relevant paras 14 to 16 are extracted herein below:

> "14. It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right. This Court examined the said question in a judgment reported as *Omkar Sinha* v. *Sahadat Khan*, (2022) 12 SCC 228. Reliance was placed on *Bachhittar Singh* v. *State of Punjab,* AIR 1963 SC 395 to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and second, it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up, the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. The said judgment

was followed in *K.S.B. Ali* v. *State of Andhra Pradesh,* (2018) 11 SCC 277 and *Dyna Technologies Pvt. Ltd.* v. *Crompton Greaves Limited,* (2019) 20 SCC 1. In *Bachhittar Singh*, it has been held as under:

> "8. What we have now to consider is the effect of the note recorded by the Revenue Minister of PEPSU upon the file. We will assume for the purpose of this case that it is an order. Even so, the question is whether it can be regarded as the order of the State Government which alone, as admitted by the appellant, was competent to hear and decide an appeal from the order of the Revenue Secretary. Article 166(1) of the Constitution requires that all executive action of the Government of a State shall be expressed in the name of the Governor. Clause (2) of Article 166 provides for the authentication of orders and other instruments made and executed in the name of the Governor. Clause (3) of that article enables the Governor to make rules for the more convenient transaction of the business of the Government and for the allocation among the Ministers of the said business. What the appellant calls an order of the State Government is admittedly not expressed to be in the name of the Governor. But with that point we shall deal later. What we must first ascertain is whether the order of the

Revenue Minister is an order of the State Government i.e. of the Governor. In this connection we may refer to Rule 25 of the Rules of Business of the Government of PEPSU which reads thus:

"Except as otherwise provided by any other Rule, cases shall ordinarily be disposed of by or under the authority of the Minister in charge who may by means of standing orders give such directions as he thinks fit for the disposal of cases in the Department. Copies of such standing orders shall be sent to the Rajpramukh and the Chief Minister."

According to learned counsel for the appellant his appeal pertains to the department, which was in charge of the Revenue Minister and, therefore, he could deal with it. His decision and order would, according to him, be the decision and order of the State Government. On behalf of the State reliance was, however, placed on Rule 34 which required certain classes of cases to be submitted to the Rajpramukh and the Chief Minister before the issue of orders. But it was conceded during the course of the argument that a case of the kind before us does not fall within that rule. No other provision bearing on the point having been brought to our notice we would, therefore, hold that the Revenue Minister could

make an order on behalf of the State Government.

9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score out his remarks or minutes on the file and write fresh ones.

x x x

11. We are, therefore, of the opinion that the remarks or the order of the Revenue Minister, PEPSU are of no avail to the appellant."

15. This Court in *Municipal Committee* v. *Jai Narayan & Co.*, 2022 SCC OnLine SC 376 held that a noting recorded in the file is merely a noting simpliciter and

nothing more. It merely represents expression of an opinion by the particular individual. It was held as under:

> "16. This Court in a judgment reported as *State of Uttaranchal* v. *Sunil Kumar Vaish*, (2011) 8 SCC 670 held that a noting recorded in the file is merely a noting simpliciter and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, such noting can be treated as a decision of the Government. It was held as under:
>
> > "24. A noting recorded in the file is merely a noting simpliciter and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, such noting can be treated as a decision of the Government. Even if the competent authority records its opinion in the file on the merits of the matter under consideration, the same cannot be termed as a decision of the Government unless it is sanctified and acted upon by issuing an order in accordance with Articles 77(1) and (2) or Articles 166(1) and (2). The noting in the file or even a decision gets culminated into an order affecting right of the parties only when it is expressed in the name of the President or the Governor, as

> the case may be, and authenticated in the manner provided in Article 77(2) or Article 166(2). A noting or even a decision recorded in the file can always be reviewed/reversed/overruled or overturned and the court cannot take cognizance of the earlier noting or decision for exercise of the power of judicial review. (See: *State of Punjab* v. *Sodhi Sukhdev Singh,* AIR 1961 SC 493, *Bachhittar Singh* v. *State of Punjab*, AIR 1963 SC 395, *State of Bihar* v. *Kripalu Shankar*, (1987) 3 SCC 34, *Rajasthan Housing Board* v. *Shri Kishan,* (1993) 2 SCC 84, *Sethi Auto Service Station* v. *DDA,* (2009) 1 SCC 180 and *Shanti Sports Club* v. *Union of India* (2009) 15 SCC 705)."
>
> 17. Thus, the letter seeking approval of the State Government by the Deputy Commissioner is not the approval granted by him, which could be enforced by the plaintiff in the court of law."

16. The basis of the claim of the writ petitioner is a letter written by the Secretary of the Soldier Welfare Department to the District Collector, Udaipur on 19.03.1971 for allotment of land. The Rules contemplate that if the possession is not taken within 6 months, the allotment shall be deemed to have been cancelled.

> Firstly, the inter-departmental communication dated 19.03.1971 cannot be treated to be a letter of allotment. Alternatively, even if it is considered to be a letter of allotment, the writ petitioner could not claim possession on the basis of such communication after more than 30 years in terms of the Rules applicable for allotment of land to the disabled ex-servicemen.''
>
> (emphasis supplied)

52. Reference can also be made to an another judgment of this Court in **Municipal Committee, Barwala, District Hisar, Haryana through its Secretary/President v. Jai Narayan and Company and another, 2022 SCC OnLine SC 376**, wherein the Court took a similar view.

53. Admittedly, in the case in hand there is no order passed by the Government and conveyed to the respondents for allotment of any land, hence, no relief was admissible to them only relying on the official notings.

CONCLUSION :

54. Considering the factual circumstances and the law laid down by this Court, the answer to the three issues framed in para no.22 is as under:

(i) There is a huge delay on the part of the respondents to avail of their appropriate remedy against the final publication of record of rights. Hence, the respondents are not entitled to any relief.

(ii) On the application of principle of constructive *res judicata,* the writ petition filed by the respondents after withdrawal of the civil suit was not maintainable as no liberty was granted. In case still filing of writ petition was to be justified, at least complete facts need to be disclosed for the purpose, which were missing. In the writ petition there was no mention regarding filing of civil suit earlier for the same relief and withdrawal thereof. A litigant can be non-suited in case he is found guilty of concealing material facts from the court or mis-stating the same. Hence, the respondents are not entitled to any relief.

(iii) There was no order passed by the Government and conveyed to the respondents for allotment of any land in their favour. Hence, the respondents are not entitled to any relief solely based on the official notings.

RELIEF

55. For the reasons mentioned above, we find merit in the appeal. The same is allowed. The order passed by the High Court in Writ Appeal No.108/2009 is set aside. Consequently, the writ petition

filed by the respondents is dismissed. There shall be no order as to costs.

_____, J.
(Abhay S. Oka)

_____, J.
(Rajesh Bindal)

New Delhi
July 12, 2023.