

[2022] 16 S.C.R. 598

A DELHI DEVELOPMENT AUTHORITY

V.

KRISHAN LAL ARORA & ORS.

(Civil Appeal No. 7960 of 2022)

B

NOVEMBER 02, 2022

[M. R. SHAH AND M. M. SUNDRESH, JJ.]

C Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s. 24(2) – Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases – Writ petition by the landowners claiming that acquisition with respect to the land deemed to be lapsed u/s.24(2) – Allowed by the High Court – On appeal, held: Though the possession of the land in question was already taken over by

D the Land Acquisition Collector / L& B Department, the acquisition was ordered to be lapsed by the High Court solely on the ground that the compensation was not paid to the landowner, and as such s 24(2) was attracted – The view taken by the High Court was contrary to the Constitution Bench decision of the Court in Indore Development Authority's case – Thus, the order passed by the High Court is quashed and set aside.

Indore Development Authority Vs. Manoharlal and Ors.

(2020) 8 SCC 129 : [2020] (3) SCR 1 – followed.

E

Case Law Reference

[2020] (3) SCR 1

followed

Para 3

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 7960
of 2022

C

G From the Judgment and Order dated 20.07.2018 of the High Court of Delhi at New Delhi in W.P. (C) No.10820 of 2016.

Mishra Saurabh, Adv. for the Appellant.

Ms. Sujeta Srivastava, Advs. for the Respondents.

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The Judgment of the Court was delivered by A

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Delhi at New Delhi in Writ Petition(C) No. 10820 of 2016 by which the High Court has allowed the said writ petition preferred by the original landowner – original writ petitioner - respondent herein, and has held and declared that the acquisition with respect to the land in question has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “Act, 2013”), the Delhi Development Authority has preferred the present appeal. C

2. From the impugned judgment and order passed by the High Court, it is seen that though the possession of the land in question was already taken over by the Land Acquisition Collector / L& B Department, Government of NCT of Delhi on 02.09.2006, the acquisition is ordered to be lapsed solely on the ground that the compensation has not been paid to the landowner. According to the High Court, as the compensation has not been paid to the original writ petitioner – original landowner, Section 24(2) of the Act, 2013 shall be attracted and therefore the acquisition is deemed to have been lapsed. The view taken by the High Court is just contrary to the Constitution Bench decision of this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors. (2020) 8 SCC 129** and in paragraph 366, it is observed and held by this Court as under:- D

“**366.** In view of the aforesaid discussion, we answer the questions as under: F

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act. G

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the 2013 Act under the 1894 Act as if it has not been repealed. H

- A **366.3.** The word “or” used in Section 24(2) between possession and compensation has to be read as “nor” or as “and”. The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.
- C **366.4.** The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.
- F **366.5.** In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.
- G **366.6.** The proviso to Section 24(2) of the 2013 Act is to be treated as part of Section 24(2), not part of Section 24(1)(b).
- H **366.7.** The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest

report/memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2). A

366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years. B

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.” C

3. In view of the above and for the reasons stated above, present appeal succeeds. The impugned judgment and order passed by the High Court ordering lapse of the acquisition with respect to the land in question under Section 24(2) of the Act, 2013 is hereby quashed and set aside. Consequently, the original writ petition preferred by the original writ petitioner stands dismissed. D

The appeal is accordingly allowed. No costs. E

Pending application(s), if any, also stand disposed of. F