

UNION OF INDIA & ANR.

A

v.

SUBHASH CHANDER SEHGAL & ORS.

(Civil Appeal No. 5439 of 2022)

AUGUST 22, 2022

B

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – s. 24(2) – Lapse of acquisition Proceedings – Claim of – Land Acquisition proceedings was challenged before the High Court – The High Court declared that the acquisition proceedings with respect to the subject land had lapsed in terms of s.24(2) of the Act 2013 – High Court relied upon the decision of the Supreme Court in the case of Pune Municipal Corporation and another v. Harakchand Misirimal Solanki and Others – On appeal, held: A Constitution Bench of Supreme Court in the case of the Indore Development Authority v. Manoharlal and Others, has specifically overruled the decision in the case of the Pune Municipal Corporation – In such a situation, no relief of lapse of acquisition proceedings can be countenanced in view of the law laid down in the case of Indore Development Authority – Once it is held that there is no lapse of acquisition proceedings u/s. 24(2) of the 2013 Act, the land which has stood vested with the appellant continues to do.

C

D

E

F

G

Indore Development Authority v. Manoharlal and others, (2020) 8 SCC 129: [2020] 3 SCR 1 – followed.

Pune Municipal Corporation and Another v. Harakchand Misirimal Solanki and Others (2014) 3 SCC 183 : [2014] 1 SCR 783; Sree Balaji Nagar Residential Association v. State of Tamil Nadu, (2015) 3 SCC 353 – referred to.

Case Law Reference

[2014] 1 SCR 783	referred to	Para 3
[2014] 7 SCR 799	referred to	Para 3
[2020] 3 SCR 1	followed	Para 3.1

H

A CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5439
of 2022.

From the Judgment and Order dated 01.03.2016 of the High Court of Delhi at New Delhi in Writ Petition (C) No. 1648 of 2015.

B Ms. Sujeeta Srivastava, Adv. for the Appellants.

S. K. Rout, Prithvi Pal, Omkar Prasad, Praveen Swarup, Ms. Payal Swarup, Rahul Tomar, Chandra Pratap Singh, Kritgya Kumar, Kaushal Jeet, Advs. for the Respondents.

The Judgment of the Court was delivered by

C **M. R. SHAH, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 01.03.2016 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No. 1648 of 2015 whereby the High Court has declared that the acquisition proceedings with respect to the subject land

D had lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the Act 2013’), the Union of India through Land Acquisition Collector and Another have preferred the present appeal.

E 2. We have heard Ms. Sujeeta Srivastava, learned counsel appearing on behalf of the appellants and Mr. S.K. Rout, learned counsel appearing on behalf of the respondent nos. 1 to 4.

3. The undisputed facts are that in the present case, the possession of the land in question was already taken over by the appropriate authority

F in the year 1987. It is also an admitted position that the subject land has been utilized way back in the year 1987 for a park by East Delhi Municipal Corporation. However, despite the above and relying upon the decisions of this Court in the case of **Pune Municipal Corporation and another versus Harakchand Misirimal Solanki and others** reported in (2014) 3 SCC 183 and **Sree Balaji Nagar Residential Association vs. State of Tamil Nadu, (2015) 3 SCC 353**, the High Court has declared that the acquisition proceedings in respect of the subject land had lapsed in terms of Section 24(2) of the Act, 2013.

G 3.1 In a subsequent decision, a Constitution Bench of this Court in the case of **Indore Development Authority versus Manoharlal H**

and others, (2020) 8 SCC 129 has specifically over-ruled the decisions of this Court in the case of **Pune Municipal Corporation (supra)** and **Sree Balaji Nagar Residential Association (supra)**. In paragraph 366 it is observed and held as under:

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

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.

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.

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.

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

A

B

C

D

E

F

G

H

- A 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.
- 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.
- 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).
- D 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).
- E **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.
- G **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.”

3.2 In such a situation no relief of lapse of acquisition proceedings can be countenanced in this case in view of the law laid down by this Court in the case of **Indore Development Authority (supra)**. Once it is held that there is no lapse of acquisition proceedings under Section 24(2) of the 2013 Act, the land which has stood vested with the appellant continues to do. Also, there is no question of payment of any compensation to the writ petitioners in respect of the suit land as per the Act, 2013.

A

B

However, the original writ petitioners shall be entitled to compensation under the Land Acquisition Act, 1894 as per Award No.102/1986-87 dated 19.09.1986 as referred to by the High Court in para 3 of the impugned judgment and order or in the event any enhancement is sought by the original writ petitioners in accordance with law.

C

3.3 In view of the above and for the reason stated above, the impugned judgment and order passed by the High Court declaring that the acquisition proceedings in respect of the subject land has lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and directing the authorities to pay the compensation to the writ petitioners in respect of the suit land as per Act 2013 deserves to be quashed and set aside and is accordingly quashed and set aside. Consequently, the writ petition filed by the private respondents before the High Court stands dismissed.

D

E

Present Appeal is accordingly allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Ankit Gyan
(Assisted by : Rahul Rathi, LCRA)

Appeal allowed.