

GOVERNMENT OF NCT OF DELHI AND ANR.

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v.

MOHD. ZUBAIR AND ANR.

(Civil Appeal No. 8930 of 2022)

DECEMBER 02, 2022

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[M. R. SHAH AND AND C. T. RAVIKUMAR, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s.24(2) – Subsequent purchaser – Entitlement of, to claim lapsing of the acquisition proceedings under s.24(2) of the Act, 2013 – Held: In view of the decision in Godfrey Philips (I) Ltd. & Ors., subsequent purchaser is not entitled to claim lapsing of the proceedings under the Act, 2013.

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Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s.24(2) – Land Acquisition – Possession taken on 16.07.2007 – It was specific case of appellant that the possession of land in question was taken over by preparing a possession proceeding on the spot – High Court declared that the land acquisition with respect to the land in question is deemed to have lapsed solely on the ground that the compensation was not tendered to the original writ petitioner – Held: Not sustainable in view of the Constitution Bench decision in the case of Indore Development Authority v. Manoharlal and Ors. – In the said decision, it was observed that for lapsing of the acquisition under s.24(2) of the Act, 2013, twin conditions, of not taking over the possession and not paying/tendering the compensation, are required to be satisfied and that if one of the conditions is not satisfied, there shall not be deemed lapse of the acquisition proceedings under s.24(2) of the Act, 2013 – In view of the fact that the possession was taken, acquisition proceedings is not deemed to be lapsed.

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

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Delhi Development Authority v. Godfrey Philips (I) Ltd. & Ors. Civil Appeal No. 3073 of 2022; Government (NCT of Delhi) v. Manav Dharam Trust and Anr. (2017) 6 SCC 751 : [2017] 4 SCR 232 – relied on.

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A	<u>Case Law Reference</u>		
	[2017] 4 SCR 232	relied on	Para 2.1
	[2020] 3 SCR 1	followed	Para 2.2
CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8930 B of 2022.			
B	From the Judgment and Order dated 30.07.2018 of the High Court of Delhi at New Delhi in Writ Petition (C) No. 2674 of 2017.		
	Ms. Sujeeta Srivastava, Adv. for the Appellants.		
C	Ashwani Kumar, Ishaan Sharma, Anshay Dhatwalia, Advs. for the Respondents.		
	The Judgment of the Court was delivered by		
	M. R. SHAH, J.		
D	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. 2674 of 2017 by which the High Court has declared that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as “Act, 1894”) with regard to the subject land is deemed to have lapsed under Section 24(2) of the Right to Fair		
E	Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “Act, 2013”), the Government of NCT of Delhi and Anr. have preferred the present appeal.		
F	2. From the impugned judgment and order passed by the High Court, it appears that a specific objection was raised on behalf of the appellants – original respondents that the original writ petitioner being subsequent purchaser is not entitled to challenge the acquisition proceedings. Before the High Court, it was also specifically pointed out and so stated in the counter that the possession of the land in question was taken over on 16.07.2007. However, thereafter, overruling the objection on behalf of the appellants on the maintainability of the writ petition by the subsequent purchaser – original writ petitioner and ignoring the stand taken on behalf of the appellants that the possession was taken over on 16.07.2007, the High Court has declared the acquisition proceedings lapsed under Section 24(2) of the Act, 2013 solely on the ground that the compensation has not been tendered to the original writ petitioner.		
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2.1 On the maintainability of the writ petition, challenge to the land acquisition proceedings by the subsequent purchaser, in the recent decision of this Court in the case of **Delhi Development Authority Vs. Godfrey Philips (I) Ltd. & Ors.**, - Civil Appeal No. 3073 of 2022 after considering the catena of decisions on the point and even after taking into consideration the decision of this Court in the case of **Government (NCT of Delhi) Vs. Manav Dharam Trust & Anr.**, (2017) 6 SCC 751, in the decision, which has been relied upon by the High Court, it is specifically observed and held that the subsequent purchaser has no locus to challenge the acquisition proceedings. In view of the decision of this Court in the case of **Godfrey Philips (I) Ltd. & Ors. (supra)** taking the view that the subsequent purchaser is not entitled to claim lapsing of the acquisition proceedings under the Act, 2013, the impugned judgment and order passed by the High Court taking the view that the writ petition at the instance of the subsequent purchaser claiming lapsing of the acquisition proceedings under the Act, 2013 would be maintainable, is unsustainable.

2.2 Even otherwise, the impugned judgment and order passed by the High Court declaring that the acquisition proceedings under the Act, 1894 with respect to the land in question is deemed to have lapsed under Section 24(2) of the Act, 2013 on the ground that the compensation was not tendered to the original writ petitioner is unsustainable in view of the Constitution Bench decision of this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors.**, (2020) 8 SCC 129. At this stage, it is required to be noted that before the High Court, it was the specific case on behalf of the appellants that the possession of the land in question was taken over by preparing a possession proceeding on the spot. In paragraph 366, the Constitution Bench of this Court in the case of **Indore Development Authority (supra)** has 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

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- A 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.
- B **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.
- D **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.
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366.6. The proviso to Section 24(2) of the 2013 Act is to be A treated as part of Section 24(2), not part of Section 24(1)(b).

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). B

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. C

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.” E

3. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court deserves to be F quashed and set aside and is accordingly quashed and set aside.

Present appeal is accordingly allowed. No costs.

Pending applications, if any, also stand disposed of.