

A THE SECRETARY, THE DEPARTMENT OF LAND AND
BUILDING AND ORS.

v.

ANJEET SINGH (DEAD) THROUGH LRS. AND ANR.

B (Civil Appeal No. 8196 of 2022)

NOVEMBER 24, 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) – High Court relied upon its earlier decision in the case of Jagjeet Singh & Ors. Vs. Union of India & Ors., in which it had relied on the decision of Supreme Court in the case of Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors. – High Court without entering into the question of possession, declared that the acquisition with respect to land in question is deemed to have lapsed u/s.24(2) of the Act, 2013 as the compensation with respect to the land in question was not paid – Held: The case of Pune Municipal corporation which was relied on by High Court has already been overruled by subsequent Supreme Court decision in Indore Development authority v. Manoharlal and Ors. in which the Constitution Bench held that for the purpose of deemed lapse of land acquisition u/s.24(2) of 2013 Act, both the conditions namely the possession has not been taken and compensation not paid are required to be satisfied – In the instant case, as compensation was not paid due to inter se dispute between co- owners therefore respondents cannot make the claim of deemed lapse of acquisition – In view of the decision of the Supreme Court in the case of Indore Development Authority, the impugned judgment of High Court unsustainable.*

Allowing the appeal, the Court

G **HELD:1. From the judgment and order passed by the High Court in the case of Jagjeet Singh & Ors. Vs. Union of India & Ors., it appears that the High Court has heavily relied upon the decision of this Court in the case of Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors. reported in (2014) 3 SCC 183. The High Court in the said case, i.e., Jagjeet**

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Singh & Ors., without going into the controversy of physical possession had declared that the acquisition with respect to the said land is deemed to have lapsed as the compensation with respect to the land in question has not been tendered to the recorded owner. However, it cannot be disputed that the decision of this Court in the case of Pune Municipal Corporation and Anr. has been subsequently specifically overruled by the Constitution Bench of this Court in the case of Indore Development Authority Vs. Manoharlal and Ors. [Para 3.2][681-E-G]

2. It was the specific case on behalf of the authority that the possession of the land in question was already taken over on 22.09.1986. However, thereafter without entering into the question of possession, the High Court has declared that the acquisition with respect to land in question is deemed to have lapsed under Section 24(2) of the Act, 2013 as the compensation with respect to the land in question was not paid. As observed and held by this Court in the case of Indore Development Authority for the purpose of deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act, both the conditions namely the possession of land has not been taken over and the compensation not paid are required to be satisfied. As observed and held by this Court in the case of Indore Development Authority, if one of the conditions are not satisfied, there cannot be any lapse of acquisition under Section 24(2) of the Act, 2013. [Para 3.4][682-C-F]

3. It is required to be noted that in the present case, the compensation was not paid to the landowners in view of the fact that there was ownership dispute between the co-owners with respect to compensation. Therefore, if the compensation has not been paid due to inter se dispute between the co-owners, thereafter, it will not be open for the respondents – landowners to make a grievance that once the compensation was not paid, the acquisition is deemed to have lapsed. In any case, in view of the decision of this Court in the case of Indore Development Authority, the impugned judgment and order passed by the High Court was held to be unsustainable. [Para 3.5 and 3.6][685-A-B; 685-D-E]

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

Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors. (2014) 3 SCC 183 : [2014] 1 SCR 783 – referred to.

B *Jagjeet Singh & Ors. v. Union of India & Ors.*, (Writ Petition (C) No. 960 of 2015 in the Delhi High Court) – referred to.

Case Law Reference

C	[2014] 1 SCR 783	referred to	Para 3.2
	[2020] 3 SCR 1	followed	Para 3.2

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8196 of 2022.

D From the Judgment and Order dated 25.04.2017 of the High Court of Delhi, at New Delhi, in Writ Petition (C) No. 203 of 2015.

Ms. Sujeeta Srivastava, Adv. for the Appellants.

Rishab Nagar, Raghab Nagar, Gopal Singh Chauhan, Deepak Goel, Rajiv Ghawana, Ms. Akshita Chhatwal, Ranjit Singh, T. V. S. Raghavendra Sreyas, Ms. Gayatri Gulati, Siddharth Vasudev, Ms. Sunieta Ojha, Akansh Singh, Ravi Bharuka, Ankit Agarwal, Nitin Mishra, Ishaan Sharma, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

F 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. 203 of 2015 by which the High Court has allowed the said writ petition preferred by the respondent No.1 herein and has declared that the acquisition with respect to the land in question comprised in Khasra
G No. 156 admeasuring 2 bighas, 4 biswas in village Lado Sarai, New Delhi, is deemed to have 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 Department of Land and Building and the Land Acquisition Collector
H have preferred the present appeal.

2. We have heard Ms. Sujeeta Srivastava, learned counsel appearing on behalf of the appellants and Shri Rishab Nagar, learned counsel appearing on behalf of the respondent Nos. 1(i) to 1(iv). A

3. At the outset, it is required to be noted that in the present case, the acquisition proceedings commenced in the year 1986. The award under the Land Acquisition Act, 1894 was declared on 14.09.1986. According to the appellants, the possession of the land in question was taken on 22.09.1986. B

3.1 From the impugned judgment and order passed by the High Court, it appears that relying upon its earlier decision in the case of **Jagjeet Singh & Ors. Vs. Union of India & Ors., Writ Petition (C) No. 960 of 2015**, which was also with respect to Khasra No. 156 admeasuring 2 bighas, 4 biswas in village Lado Sarai, New Delhi, by which the High Court allowed the said writ petition preferred by the landowners and declared that the acquisition with respect to the said land is deemed to have lapsed under Section 24(2) of the Act, 2013, the High Court has allowed the present Writ Petition (C) No. 203 of 2015 and has disposed of the same in terms of the order passed in Writ Petition (C) No. 960 of 2015. C D

3.2 However, from the judgment and order passed by the High Court in **Writ Petition (C) No. 960 of 2015** in the case of **Jagjeet Singh & Ors. Vs. Union of India & Ors.**, it appears that the High Court has heavily relied upon the decision of this Court in the case of **Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors.** reported in (2014) 3 SCC 183. The High Court in the said case, i.e., **Jagjeet Singh & Ors. (supra)**, without going into the controversy of physical possession had declared that the acquisition with respect to the said land is deemed to have lapsed as the compensation with respect to the land in question has not been tendered to the recorded owner. However, it cannot be disputed that the decision of this Court in the case of **Pune Municipal Corporation and Anr. (supra)** has been subsequently specifically overruled by the Constitution Bench of this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors.** reported in (2020) 8 SCC 129. E F G

3.3 However, it is the case on behalf of the respondent Nos.1(i) to 1(iv) that the Civil Appeal against the decision of the Delhi High Court in the case of **Jagjeet Singh & Ors. (supra)** has been dismissed by this Court by common judgment and order dated 04.05.2017 and even H

- A the review application has been dismissed and therefore, the impugned judgment and order passed by the High Court may not be interfered with by this Court. However, it is required to be noted that when Civil Appeal No. 6250 of 2017 in the case of **Jagjeet Singh & Ors. (supra)** came to be dismissed, the law was not settled, which has ultimately been settled by the Constitution Bench judgment of this Court in the case of **Indore Development Authority (supra)** and therefore, the decision of this Court in the case of **Jagjeet Singh & Ors. (supra)** shall not be of any assistance to the respondents in view of the law laid down by this Court in the case of **Indore Development Authority (supra)**. It is required to be noted that the review application has been dismissed on the ground of delay and not on merits.

- 3.4 Now on merits, it was the specific case on behalf of the authority that the possession of the land in question was already taken over on 22.09.1986. However, thereafter without entering into the question of possession, the High Court has declared that the acquisition with respect to land in question is deemed to have lapsed under Section 24(2) of the Act, 2013 as the compensation with respect to the land in question was not paid. As observed and held by this Court in the case of **Indore Development Authority (supra)** for the purpose of deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act, both the conditions namely the possession of land has not been taken over and the compensation not paid are required to be satisfied. As observed and held by this Court in the case of **Indore Development Authority (supra)**, if one of the conditions are not satisfied, there cannot be any lapse of acquisition under Section 24(2) of the Act, 2013. In paragraphs 365 and 366, the Constitution Bench of this Court in the case of **Indore Development Authority (supra)** has observed and held as under:-

- “365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353] cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra

[(2018) 3 SCC 412], the aspect with respect to the proviso to Section 24(2) and whether “or” has to be read as “nor” or as “and” was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment. A

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

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. C

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. D

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. E

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 F
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A 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.

B **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
C 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 **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
E under Section 24(2).

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
F 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.

366.9. Section 24(2) of the 2013 Act does not give rise to
G 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
H legality of mode of taking possession to reopen proceedings or

mode of deposit of compensation in the treasury instead of court
to invalidate acquisition.” A

3.5 Even otherwise, it is required to be noted that in the present
case, the compensation was not paid to the landowners in view of the
fact that there was ownership dispute between the co-owners with
respect to compensation. In paragraph 6 (vi), the respondents have B
admitted the same, which reads as under:-

“.....Admittedly, as per the available record, i.e.,
Naksha Muntazmin, the compensation inclusive of solatium and
interest up to 16th Sept 1986 was ordered not to be paid on account
of dispute amongst the claimants. And nor was the corpus C
deposited in the Reference Court as per the provisions of the
Act.”

3.6 Therefore, if the compensation has not been paid due to inter
se dispute between the co-owners, thereafter, it will not be open for the
respondents – landowners to make a grievance that once the
compensation was not paid, the acquisition is deemed to have lapsed. In D
any case, in view of the decision of this Court in the case of **Indore
Development Authority (supra)**, the impugned judgment and order
passed by the High Court is unsustainable.

4. In view of the above and for the reasons stated above, present
appeal succeeds. The impugned judgment and order passed by the High
Court in Writ Petition (C) No. 203 of 2015 declaring that the acquisition
with respect to the land in question is deemed to have lapsed under
Section 24(2) of the Act, 2013 is hereby quashed and set aside. E

Present appeal is accordingly allowed. No costs. F

Pending application, if any, also stands disposed of.