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GOVERNMENT OF NCT OF DELHI

v.

SUBHASH JAIN AND ORS.

(Civil Appeal No. 8937 of 2022)

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DECEMBER 02, 2022

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

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s.24(2) –

- C *High Court declared that the acquisition of lands in question deemed to have lapsed under s.24(2) of the Act, 2013 – Held: High Court failed to notice and consider the specific case on behalf of the State that at the relevant time, the possession could not be taken over due to the pending proceedings at the instance of the landowners challenging the acquisition proceedings, which ended*
- D *upto this Court – Original landowners failed in challenge to the acquisition proceedings upto this Court – Under the circumstances, when due to pendency of the land acquisition proceedings, the possession could not be taken over, thereafter, it will not be open for the landowners to contend that as the possession was not taken over, the land acquisition proceedings be deemed to have lapsed under s.24(2) of the Act, 2013 – In view of Indore Development Authority v. Manoharlal and Ors., the impugned judgment passed by the High Court declaring that the land acquisition proceedings with respect to the land in question has lapsed under s.24(2) of the Act, 2013 is unsustainable – Land Acquisition Act, 1894.*

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Allowing the appeal, the Court

HELD: The original landowners failed in challenging the acquisition proceedings upto this Court. Under the circumstances, when due to pendency of the land acquisition proceedings, the possession could not be taken over, thereafter, it will not be open

- G *for the landowners to contend that as the possession was not taken over, the land acquisition proceedings be deemed to have lapsed under Section 24(2) of the Act, 2013. The impugned judgment and order passed by the High Court declaring that the land acquisition proceedings with respect to the land in question H has lapsed under Section 24(2) of the Act, 2013 is unsustainable*

and the same deserves to be quashed and set aside and is A
accordingly quashed and set aside. [Paras 2.1, 3][632-B-C; 634-D]

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

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

Case Law Reference

[2014] 1 SCR 783	referred to	Para 2	C
[2020] 3 SCR 1	followed	Para 2.2	

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8937 D
of 2022.

From the Judgment and Order dated 20.07.2015 of the High Court
of Delhi at New Delhi in Writ Petition (C) No. 2709 of 2015.

Atul Kumar, Rahul Pandey, Amitabh Ranjan, Rajiv Ranjan, Advs.
for the Appellant.

Ms. Sunieta Ojha, Akansh Singh, Advs. for the Respondents. E

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment F
and order passed by the High Court of Delhi at New Delhi in Writ
Petition(C) No. 2709 of 2015 by which the High Court has allowed the
said writ petition and has declared that the land acquisition proceedings
under the Land Acquisition Act, 1894 (hereinafter referred to as “Act,
1894”) with regard to the land in question 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 G
(hereinafter referred to as “Act, 2013”), the Government of NCT of
Delhi and Anr. have preferred the present appeal.

2. From the impugned judgment and order passedby the High H
Court, it appears that while declaring that the acquisition proceedings
under the Act, 1894 is deemed to have lapsed under Section 24(2) of the

- A Act, 2013, 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., (2014) 3 SCC 183.**

2.1 However, the High Court has failed to notice and consider the specific case on behalf of the appellants that at the relevant time, the

- B possession could not be taken over due to the pending proceedings at the instance of the landowners challenging the acquisition proceedings, which ended upto this Court. The original landowners failed in challenging the acquisition proceedings upto this Court. Under the circumstances, when due to pendency of the land acquisition proceedings, the possession could not be taken over, thereafter, it will not be open for the landowners
C to contend that as the possession was not taken over, the land acquisition proceedings be deemed to have lapsed under Section 24(2) of the Act, 2013.

2.2 In the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129**, in paragraph 366, the

- D Constitution Bench of this Court has observed and held as under:-

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

- E **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.

- F **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.

- G **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 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).

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).

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

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- 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 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. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court declaring that the land acquisition proceedings with respect to the land in question has lapsed under Section 24(2) of the Act, 2013 is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside.
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Present appeal is accordingly allowed. No costs.

Pending application, if any, also stands disposed of.

Devika Gujral
(Assisted by : Mahendra Yadav, LCRA)

Appeal allowed.