

DELHI ADMINISTRATION THR. SECRETARY,
LAND AND BUILDING DEPARTMENT & ORS.

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v.

PAWAN KUMAR & ORS.

(Civil Appeal No. 3646 of 2022)

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MAY 06, 2022

[HEMANT GUPTA AND V. RAMASUBRAMANIAN, JJ.]

Land Acquisition Act, 1894 – ss. 4 and 6 – Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – s. 24(2) – Lapse of acquisition proceedings – Claim of – Respondent purchased property after the publication of notice u/ss.4 and 6 of the 1894 Act – Appellants had deposited compensation (amount payable to original owners) by filing application in the High Court since the deposit was not accepted by the Additional District Judge, on account of the Court closed for winter vacations – The High Court passed order recording that the same shall be treated as tendered to the Court of Additional District Judge on 30.12.2013 – Respondent filed writ petition before the High Court and claimed lapse of the proceedings under 2013 Act – The High Court declared the acquisition proceedings as lapsed in view of the provisions of s. 24(2) of the 2013 Act – Held: The respondent is a purchaser after the publication of notice u/ss. 4 and 6 of the Act and in fact after the award of the Land Acquisition Collector – Therefore, for the reasons recorded in the matter of Delhi Development Authority v. Godfrey Phillips (I) Ltd., subsequent purchaser is not entitled to claim lapsing of the proceedings under the 2013 Act – Further, the finding that compensation was not offered to the land owners and therefore the deposit in the Court cannot be regarded as payment of compensation is again not tenable in view of the judgment in Indore Development Authority v. Manohar Lal & Ors. – Therefore, the order passed by the High Court is not sustainable and same is set aside – Appeal allowed.

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Indore Development Authority v. Manoharlal & Ors
(2020) 8 SCC 129; Delhi Development Authority v.

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A *Godfrey Phillips (I) Ltd. (Civil Appeal No. 3073 of 2022 decided by the Supreme Court) – relied on.*

Chatro Devi v. Union of India & Ors. 2005 SCC Online Delhi 279 – referred to.

B *Gyanender Singh & Ors. v. Union of India & Ors. W.P.(C) No. 1393 of 2014 decided by the Delhi High Court – referred to.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3646 of 2022.

C From the Judgment and Order dated 03.02.2015 of the High Court of Delhi at New Delhi in Writ Petition (C) No. 5318 of 2014.

Ms. Sujeeta Srivastava, Adv. for the Appellants.

Rajender Pd. Saxena, N. P. Sahni, Vishnu B. Saharya, Viresh B. Saharya, Akshat Agarwal for M/s Saharya & Co., Advs. for the

D Respondents.

The Judgment of the Court was delivered by

HEMANT GUPTA, J.

E 1. The challenge in the present appeal is to a judgment and order dated 03.02.2015 whereby the writ petition filed by the respondents was allowed in view of the earlier judgment of the Delhi High Court in *Gyanender Singh & Ors. v. Union of India & Ors*¹.

F 2. The respondent purchased the land measuring 7 Bigha 1 Biswa situated in village Sayoorpur, Tehsil- Mehrauli, New Delhi on 25.11.2011. The original land owner had filed a Writ Petition No. 2276 of 1985 challenging the notifications under Sections 4 and 6 of the Land Acquisition Act, 1894² dated 25.11.1980 and 20.05.1985 respectively. The Land Acquisition Collector had announced the award on 14.05.1987. The said writ petition filed by the original land owner was dismissed on 03.03.2005 in view of the order passed on the same date in *Chatro Devi v. Union of India & Ors.*³. Subsequently, a review application was filed by the original land owner *inter alia* on the ground that the objections filed under Section 5A were not considered. It was found by the High

¹ W.P.(C) No. 1393 of 2014

² For short the Act

³ 2005 SCC Online Delhi 279

Court that the original land owner has not given any date of filing of the objection, nor the details as to when and before whom the objections were filed. The objections were not attached with the writ petition either. Consequently, the review application was dismissed on 27.04.2006. It was thereafter, the purchaser has purchased the property on 25.11.2011.

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3. The Division Bench in *Gyanender Singh* noticed the payment deposited by the appellant and held as under:

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“It is absolutely clear from the above extracts that unless and until the compensation is tendered to the persons interested, mere depositing of the compensation in the court would not be sufficient. To be clear, compensation cannot be regarded as having been paid merely on the deposit of the same in court unless and until it has first been offered to the person interested and he has refused to accept the same. In the present case, it is an admitted position that the compensation amount was tendered in this Court without first being offered to the persons interested (petitioners). Therefore, in view of the clear dictum of the Supreme Court in *Pune Municipal Corporation* (supra), such deposit of compensation in court cannot be regarded as a payment of compensation as contemplated under the provisions of Section 24(2) of the 2013 Act.”

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4. The High Court declared the acquisition proceedings as lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013⁴.

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5. Such provision has been interpreted in *Indore Development Authority v. Manoharlal & Ors.*⁵ wherein it has been held that twin conditions of non-payment of compensation and/or not taking possession would lead to the deemed lapse of proceedings. Therefore, if any of the twin conditions is not satisfied, the proceedings cannot be declared to be lapsed.

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6. The stand of the appellant was that even after the dismissal of the writ petition filed by the original land owner, interim orders in respect of the same acquisition in other writ petitions were in operation, therefore, the appellant could not have taken possession of the land.

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⁴For short, the ‘2013 Act’

⁵(2020) 8 SCC 129

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- A 7. It was also pointed out that the compensation was deposited by filing an application before the High Court on 30.12.2013 since the deposit had not been accepted by the Additional District Judge, South on account of the Court being closed for winter vacations. Thus, an application under Article 227 of the Constitution- CM(M) No. 1407 of 2013 was filed before the High Court. The appellant had thus deposited cheques before
- B the High Court for the amounts payable to original land owner namely Balkishan S/o Ram Ratan Kapayi such as a sum of Rs.14,61,188.25 in respect of land measuring 53 Bigha and 9 Biswa, Rs. 4,21,878.93 for land measuring 13 Bigha and 6 Biswa and Rs.47,798.97 for land measuring 1 Bigha and 12 Biswa. The High Court had passed an order
- C that the same shall be treated as tendered to the Court of Additional District Judge on 30.12.2013. The High Court passed the following order on 30.12.2013:-
- D “2. As vaguely pleaded in para 10 and as orally explained, the urgency to file these petitions is that if compensation assessed is not paid or deposited the proceedings under the Land Acquisition Act, 1894 lapse.
3. It is pleaded in paragraph 4 that the concerned Court is presently closed during winter vacations and shall reopen on January 02, 2014.
- E 4. Enclosed with the petitions as Annexure-2 are cheques drawn in the name of ‘ADJ, Delhi’.
5. A meaningful reading of the petition would reveal that the intentment is to tender the amounts on or before December 31, 2013.
- F 6. The petitions stand disposed of recording that without prejudice to the rights and contentions of the land holders the cheques tendered in each petition (being Annexure P-2) would be treated as a tender to the Court of the learned Additional District Judge Delhi as of today i.e. December 30, 2013.
- G 7. The Registry is directed to remove the cheques annexed as Annexure 2 and keep them in safe custody till reopening of the Court. On the reopening the cheques shall be sent to the Court of the concerned Additional District Judge Delhi.....”
- H 8. We have heard learned counsel for the parties and find that the

order of the High Court cannot be sustained in law for two reasons. Firstly, the respondent is a purchaser after the publication of notice under Sections 4 and 6 of the Act and in fact after the award of the Land Acquisition Collector. Therefore, for the reasons recorded in a separate judgment delivered today in the matter of *Delhi Development Authority v. Godfrey Phillips (I) Ltd.*⁶, subsequent purchaser is not entitled to claim lapsing of the proceedings under the 2013 Act.

9. Secondly, the finding that compensation was not offered to the land owners and therefore the deposit in the Court cannot be regarded as payment of compensation is again not tenable in view of the judgment in *Manohar Lal* wherein this Court held as under:

“202. Section 24(2) deals with the expression where compensation has not been paid. It would mean that it has not been tendered for payment under Section 31(1).

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205. The word “paid” in Section 31(1) to the landowner cannot include in its ambit the expression “deposited” in court. Deposit cannot be said to be payment made to landowners. Deposit is on being prevented from payment. However, in case there is a tender of the amount that is to mean amount is made available to the landowner that would be a discharge of the obligation to make the payment and in that event such a person cannot be penalised for the default in making the payment. In default to deposit in court, the liability is to make the payment of interest under Section 34 of the 1894 Act.

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207. In our considered opinion, there is a breach of obligation to deposit even if it is taken that amount to be deposited in the Reference Court in exigencies being prevented from payment as provided in Section 31(2). The default will not have the effect of reopening the concluded proceedings. The legal position and consequence which prevailed from 1893 till 2013 on failure to deposit was only the liability for interest and all those transactions were never sought to be invalidated by the provisions contained in Section 24. It is only in the case where in a pending proceeding

⁶ Civil Appeal No. 3073 of 2022

A for a period of five years or more, the steps have not been taken for taking possession and for payment of compensation, then there is a lapse under Section 24(2). In case amount has not been deposited with respect to majority of landholdings, higher compensation has to follow. Both lapse and higher compensation are qualified with the condition of period of 5 years or more.

B 208. It was submitted that mere tender of amount is not payment. The amount has to be actually paid. In our opinion, when amount has been tendered, the obligation has been fulfilled by the Collector. Landowners cannot be forced to receive it. In case a person has not accepted the amount wants to take the advantage of non-payment, though the amount has remained (sic unpaid) due to his own act. It is not open to him to contend that the amount has not been paid to him, as such, there should be lapse of the proceedings. Even in a case when offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holding, for that adequate provisions have been given in the proviso also to Section 24(2). The scheme of the 2013 Act in Sections 77 and 80 is also the same as that provided in Sections 31 and 34 of the 1894 Act.

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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 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.”

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10. In view of above, and for the reasons recorded in a separate A
judgment delivered today in *Godfrey Phillips (I) Ltd.*, the order passed
by the High Court is not sustainable and therefore, the same is set aside.
The writ petition filed by the respondent stands dismissed.

11. The appeal is allowed.

Ankit Gyan
(Assisted by : Rahul Rathi, LCRA)

Appeal allowed.