

DELHI DEVELOPMENT AUTHORITY

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v.

SURENDER SINGH & ORS.

(Civil Appeal No. 1548 of 2023)

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April 11, 2023

[ABHAY S. OKA AND RAJESH BINDAL, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s. 24(2) – Land acquisition, when deemed to have lapsed – Acquisition proceedings initiated under Land Acquisition Act, 1894 – Writ petitions u/s. 24(2) claiming that acquisition under the 1894 Act had lapsed as neither the possession was taken nor the compensation therefor has been paid – High Courts relying on the Pune Municipal Corporation’s case held that the acquisition has lapsed as the compensation was not paid to the land owners – On appeal, held: The Constitution Bench judgment in Indore Development Authority’s case overruling the Pune Municipal Corporation’s case held that satisfaction of either of the conditions namely taking possession of the acquired land or payment of compensation to the landowners would be sufficient to save the acquisition from being lapsed in terms of s. 24(2) – On facts, the land was handed over to the Delhi Development Authority, as such one of the conditions was satisfied – In view thereof, there is no deemed lapse and the acquisition is sustained – Order of the High Court not sustainable and is set aside – Land Acquisition Act, 1894.

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Indore Development Authority Vs. Manoharlal and Ors, (2020) 8 SCC 129 – followed.

Govt. of NCT of Delhi Vs. Manav Dharma Trust and Another (2017) 6 SCC 751 : [2017] 4 SCR 232; Pune Municipal Corporation & Another Vs. Harakchand Misirimal Solanki & Ors. (2014) 3 SCC 183 : [2014] 1 SCR 783; Shiv Kumar Vs. Union of India (2019) 10 SCC 229 – referred to.

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A	<u>Case Law Reference</u>		
	[2017] 4 SCR 232	referred	Paras 3, 12, 14
	[2014] 1 SCR 783	referred	Paras 3, 6, 8, 12, 13, 15
	(2019) 10 SCC 229	referred	Para 14
B	(2020) 8 SCC 129	followed	Para 19

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1548 of 2023.

From the Judgment and Order dated 16.10.2018 of the High Court of Delhi at New Delhi in WPC No. 9603 of 2015.

With

Civil Appeal Nos. 1572, 1549 and 1547 of 2023.

Mishra Saurabh, Adv. for the Appellant.

Ms. Sujeeta Srivastava, Adv. for the Respondents.

The Judgment of the Court was delivered by

RAJESH BINDAL, J.

1. This order will dispose of a bunch of appeals as common questions of law and fact are involved. The facts of the cases have been noticed separately.

FACTS:

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2. As pleaded, notification under Section 4 of the Land Acquisition Act, 1894 (for short, “the Act”) was issued on 21.03.2003 seeking to acquire land for Rohini Residential Scheme at Delhi. On 19.3.2004, Notification under Section 6 of the Act was issued. The Land Acquisition Collector announced the award under Section 11 of the Act assessing compensation for the acquired land on 12.7.2005. The compensation amount of ₹ 80,40,76,004/- for the acquisition of the land was deposited by the State with the Land Acquisition Collector.

3. A writ petition was filed in the High Court invoking Section 24(2) of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “2013 Act”) claiming that the acquisition in question has lapsed since neither possession has been taken nor the compensation therefor has been paid. The definite stand of the State before the High Court was that the possession of the land was taken on 31.08.2005 and handed over to the Delhi Development Authority for planned development of Delhi. The title of the writ petitioners was in dispute. Hence, the compensation could not be paid to them. It was deposited with the Land Acquisition Collector. The High Court after relying upon the judgment of this Court in *Govt. of NCT of Delhi vs. Manav Dharma Trust and another’s* (2017) 6 SCC 751 held that petitioner therein had locus to file the writ petition though not being the recorded owner. It further relied upon the judgment of this Court in *Pune Municipal Corporation & another v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183 and held that the acquisition has lapsed as the compensation had not been paid to the land owners. Though, the issue of title of the land was left open.

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(DELHI DEVELOPMENT AUTHORITY VS. RAM SINGH & ORS.)

4. From the facts as are available on record, it is evident that notification under Section 4 of the Act was issued on 23.09.1989 proposing to acquire the land situated in the revenue estate of village Ghonda Gujran Khadar, Shahdra, Delhi, for the purpose of planned development of Delhi. Notification under Section 6 of the Act was issued on 20.06.1990 and award bearing no. 8/92-93 was announced by the Land Acquisition Collector on 19.06.1992.

5. A writ petition was filed in the High Court invoking Section 24(2) of the 2013 Act claiming that the acquisition in question has lapsed as neither possession has been taken nor the compensation therefor has been paid. The appellant’s stand before the High Court was that the possession of the land was taken on 21.03.2007 and handed over to the Delhi Development Authority for planned development of Delhi. The compensation could not be paid to the land owners as they never claimed the same.

6. The High Court relying upon the judgment of this Court in *Pune Municipal Corporation’s* case (supra) held that the acquisition has lapsed as the compensation was not paid to the land owners.

A **CIVIL APPEAL NO. 1549 OF 2023**
 (GOVT. OF NCT DELHI & ANR. VS. GYAN CHAND &
 ORS.)

B 7. From the facts as are available on record, it is evident that notification under Section 4 of Act seeking to acquire the land situated in revenue estate of villages Tughlakabad, Delhi, was issued on 25.01.1965. The same was followed by notification issued under Section 6 of the Act on 13.02.1969. The award bearing No. 50-A/1969-70 for the same was announced by the Land Acquisition Collector on 04.11.1981.

C 8. A writ petition was filed in the High Court invoking Section 24(2) of the 2013 Act claiming that the acquisition in question has lapsed since neither the possession has been taken nor the compensation therefor has been paid. The appellant's stand before the High Court was that the possession of the land was taken on 23.11.1981 and handed over to the Delhi Development Authority for planned development of Delhi. The
D compensation could not be paid to the land owners as they never claimed the same. It was further submitted that the entire record pertaining to the compensation was not traceable being old.

E 9. The High Court relying upon the judgment of this Court in *Pune Municipal Corporation's* case (supra) held that the acquisition has lapsed as the compensation was not paid to the land owners.

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 (DELHI DEVELOPMENT AUTHORITY VS. VEENA
 JAIN & ORS.)

F 10. From the facts of the case as are available on record, it is evident that vide notification dated 23.06.1989 issued under Section 4 of the Act large chunk of the land including the land of petitioner comprised in Khasra No.490, measuring 1 bigha 1 biswa situated in revenue estate of village Madan Pur Khadar, New Delhi was sought to be acquired for
G planned development of Delhi. It was followed by the notification issued under Section 6 read with Section 17 of the Act. The Award bearing No.20/92-93 was announced by the Land Acquisition Collector / Collection (DS) on 19.06.1992.

H 11. A writ petition was filed in the High Court invoking Section 24(2) of the 2013 Act claiming that the acquisition in question has lapsed

as neither the possession has been taken nor the compensation therefor has been paid. The appellant's stand before the High Court was that the possession of the land was taken on 03.12.2012 and handed over to the Delhi Development Authority for planned development of Delhi. The compensation was sent to the Reference Court under Section 30-31 of the Act on account of dispute of apportionment amongst different owners.

12. The High Court relying upon the judgment of this Court in *Manav Dharma Trust and another's* case (supra) held that the petitioner has locus to file the writ petition though not being the recorded owner. The High Court further relied upon the judgment of this Court in *Pune Municipal Corporation's* case (supra) and held that the acquisition has lapsed as the compensation was not paid to the land owners. The question of title of subject land was left open to be decided by the appropriate forum.

ARGUMENTS RAISED BY THE COUNSELS:

13. The arguments raised by learned counsels appearing for the appellants are that in view of the Constitution Bench judgment of this Court in *Indore Development Authority vs. Manoharlal and Others* (2020) 8 SCC 129 whereby earlier judgment of this Court in *Pune Municipal Corporation & Anr.'s* case (supra) was overruled, the orders passed by the High Court, in aforesaid Civil Appeals are liable to be set aside. It was opined by the Constitution Bench that compliance of either of the two conditions *i.e.* taking over of possession of the land or payment of compensation, is good enough to sustain the acquisition. From the undisputed facts available on record it is evident that in all cases, the possession of land in dispute was taken after the acquisition was complete and awards were announced.

14. Additional arguments raised in Civil Appeal Nos. 1547 & 1548 of 2023 Civil Appeal No. 1547/2023 are that the judgment in *Manav Dharma Trust and another's case* (supra) was overruled by this Court in subsequent judgment in *Shiv Kumar vs. Union of India*, (2019) 10 SCC 229 and the aforesaid Civil Appeals are not maintainable.

15. On the other hand, the arguments raised by learned counsel for the respondents are that the writ petitions having been decided on the basis of law as existing on the date of decision by the High Court cannot be set aside on the basis of the subsequent judgment of this

A Court. The High Court has held that compensation having not been paid, as per the interpretation of Section 24(2) of the 2013 Act by this Court in ***Pune Municipal Corporation's*** case (supra), the acquisition proceedings lapsed. It is a matter of fact which has been noticed in the order passed by the High Court that the possession of the land had already been taken by the authority concerned.

B 16. Heard learned counsel appearing for the parties and perused the records.

OBSERVATIONS:

C 17. The Constitution Bench of this Court in ***Indore Development Authority's*** case (supra) had opined that satisfaction of either of the conditions namely either taking possession of the acquired land or payment of compensation to the landowners would be sufficient to save the acquisition from being lapsed in terms of Section 24(2) of the 2013 Act. Various questions posed before the Constitution Bench of this Court were also answered. Relevant para-Nos. 362 and 366 are extracted below:

D “362. Resultantly, the decision rendered in *Pune Municipal Corporation & Anr. (supra)* is hereby overruled and all other decisions in which *Pune Municipal Corporation (supra)* has been followed, are also overruled. ...

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

G 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.

H 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 A
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 B
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.

(Emphasis supplied) 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 D
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 E
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 F
“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 G
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. H

- A 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).*
- 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).*
- C 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.*
- D 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."*
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G 18. It is the undisputed fact on the record, as has been noticed in the impugned orders passed by the High Court in the aforesaid Civil Appeals, the possession of the land was taken over by the Land Acquisition Collector and handed over to Delhi Development Authority. Hence, one of the conditions being satisfied, we need not examine any other argument.

H 19. Keeping in view the aforesaid fact and the law laid down by the Constitution Bench of this Court in *Indore Development Authority's*

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case (supra), in our opinion the orders passed by the High Court cannot A
be legally sustained and the same are accordingly set aside. The appeals
are allowed. The writ petitions filed by the respondents before the High
Court are ordered to be dismissed.

Nidhi Jain
(Assisted by : Shraddha Singh, LCRA)

Appeals allowed.