

GOVT. OF NCT OF DELHI & ANR.

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v.

BHAGRATI & ANR.

(Civil Appeal No.279 of 2023)

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JANUARY 13, 2023

[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) – Land acquisition, when deemed to have lapsed – Writ petition by the respondent-original writ petitioners, seeking declaration that acquisition proceedings pertaining to subject land is deemed to have lapsed in view of s.24(2) – High Court allowed the writ petition – Sustainability of – Held: Not sustainable – Title with respect to the land in question in favour of the original writ petitioner was yet to be established – Original petitioner was not the recorded owner – Recorded owner never came forward to receive the compensation and therefore, the same was lying unpaid – Thus, unless and until the right and title of the original writ petitioner was established the High Court materially erred in entertaining the writ petition – Also, Pune Municipal Corporation’s case on which the High Court relied upon, has been overruled in the Indore Development Authority’s case – Thus, the order passed by the High Court is quashed and set aside.*

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

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*Pune Municipal Corporation & Anr. Vs Harakchand Misrimal Solanki & ors* **(2014) 3 SCC 183 : [2014] 1 SCR 783 - referred to.**

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**Case Law Reference**

**[2020] 3 SCR 1**

**followed**

**Para 3**

**[2014] 1 SCR 783**

**referred to**

**Para 2, 2.2**

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A           CIVIL APPELLATE JURISDICTION : Civil Appeal No.279 of 2023.

From the Judgment and Order dated 29.11.2017 of the High Court of Delhi at New Delhi in Civil Writ Petition No.12139 of 2015.

B           Ms. Astha Tyagi, Dinesh Chander Trehan, Ms. Diksha Narula, D. P. Singh Yadav, Advs. for the Appellant.

Ms. Manika Tripathy, Adv. for the Respondents.

The Judgment of the Court was delivered by

C           **M. R. SHAH, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29.11.2017 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No. 12139 of 2015 by which the High Court has allowed the said writ petition preferred by the private respondent no.1 herein –original writ petitioner and has declared that the acquisition with respect 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 (hereinafter referred to as “Act, 2013”), the Government of NCT of Delhi has preferred the present appeal.

2. From the impugned judgment and order passed by the High Court and the counter affidavit filed on behalf of the appellant/LAC before the High Court, it appears that it was the specific case on behalf of the appellant and others – original respondents that the award with respect to the land in question was declared on 19.06.1992 and the actual vacant physical possession of the subject land was taken on 21.03.2007, out of which the original writ petitioner is claiming 1/12<sup>th</sup> share. It was also the case on behalf of the appellant that the possession was handed over to the DDA after preparing possession proceedings on the spot. It was also the case on behalf of the appellant/LAC that the original writ petitioner is not the recorded owner and the recorded owner never came forward to receive any compensation and hence the same is lying unpaid. Despite the above and even after observing that the land in question was taken over thereafter relying upon the decision of this Court in the case of **Pune Municipal Corporation and Anr. Vs.**

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**Harakchand Misirimal Solanki and Ors., (2014) 3 SCC 183**, the High Court has erred in keeping the question of title of the subject land open to be decided in the appropriate court of jurisdiction, has declared that the acquisition with respect to the land in question is deemed to have lapsed when the compensation had not been paid. A

2.1 From the aforesaid, it appears that the title with respect to the land in question in favour of the original writ petitioner was yet to be established. The original petitioner was not the recorded owner. The recorded owner never came forward to receive the compensation and therefore the same was lying unpaid. Therefore, unless and until the right and title of the original writ petitioner was established the High Court has materially erred in entertaining the writ petition. B C

2.2 Even otherwise on merits also the impugned judgment and order passed by the High Court is unsustainable. While passing the impugned judgment and order the High Court has heavily relied upon the decision of this Court in the case of **Pune Municipal Corporation and Anr. (supra)**, which has been subsequently specifically over-ruled by the Constitution Bench of this Court in the case of **Indore Development Authority versus Manoharlal and others** reported in **(2020) 8 SCC 129**. In paragraphs 365 and 366, the Constitution Bench of this Court has observed and held as under:- D E

“**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. F G

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

- A           **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.
- B           **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.
- C           **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.
- D           **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.
- E           **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
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24(2) due to non-payment or non-deposit of compensation in court. A  
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). 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 C  
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 D  
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 E  
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 F  
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 G  
to invalidate acquisition.”

3. In view of the above and applying the law laid down by this  
Court in the case of **Indore Development Authority (supra)** the  
impugned judgment and order passed by the High Court deserves to be  
quashed and set aside.

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- A           4. In view of the above and for the reason stated above present appeal is allowed. The impugned judgment and order passed by the High Court 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
- B           Present appeal is accordingly allowed. No costs.

Nidhi Jain  
(Assisted by : Abhishek Pratap Singh and Shashwat Jain, LCRAs)

Appeal allowed.