

DELHI DEVELOPMENT AUTHORITY

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v.

BHAGI SINGH AND ORS.

(Civil Appeal No. 366 of 2023)

JANUARY 20, 2023

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[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 writ petitioner seeking declaration that acquisition proceedings pertaining to subject land is deemed to have lapsed in view of s.24(2) – High Court held the acquisition is deemed to have lapsed on the ground that no physical possession was taken in respect of the suit land – Sustainability of – Held: Not sustainable – Impugned Judgment contrary to law laid down by this Court in the Constitution Bench decision in the Indore Development Authority's case – Possession of the land was taken over by DDA through LAC/ L&B Department by drawing panchnama and preparing the possession report which is permissible – Thus, order passed by the High Court is quashed and set aside – Land Acquisition Act, 1894.

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

Case Law Reference

(2020) 8 SCC 129

followed

Para 4

CIVIL APPELLATE JURISDICTION : Civil Appeal No.366 of 2023.

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From the Judgment and Order dated 25.07.2017 of the High Court of Delhi at New Delhi in WP (C) No.8291 of 2015.

Atul Kumar, Ms. Sweety Singh, Ms. Archana Kumari, Rahul Pandey, Avs Kadyan, Rajiv Ranjan, Mishra Saurabh, Ms. Sujeeta Srivastava, Nishit Agrawal, Ms. Kanishka Mittal, Ms. Vanya Agrawal, Ashwani Kumar, Anshay Dhatwalia, Ms. Binu Tamta, Ms. Smita Maan, Nitin Mishra, Ishaan Sharma, Mohit Kumar Gupta, Shekhar Yadav, Ms. Iti Sharma, Rahul Bhatia, Rachita Kadyan, N. S. Vashist, Gagan Gupta, Ms. Astha Tyagi, Dinesh Chander Trehan, Ms. Diksha Narula, Advs. for the appearing parties.

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- A The Judgment of the Court was delivered by
M. R. SHAH, J.
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. 8291 of 2015 by which the High Court has allowed the
- B said writ petition and has declared that the acquisition proceedings initiated 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 (hereinafter referred to as “Act, 2013”), the Delhi Development Authority (DDA) has preferred the present appeal.
2. We have heard the learned counsel for the respective parties.
3. From the impugned judgment and order passed by the High Court, it appears and so stated in the affidavit filed by the Land Acquisition Collector (LAC) before the High Court that the possession of the land in question – Khasra No. 28 was taken over by the DDA through LAC/ L&B Department on 21.03.2007. Despite the above, the High Court has declared that the acquisition with respect to the land in question is deemed to have lapsed on the ground that no physical possession was taken in respect of the suit land.
- E 4. The impugned judgment and order passed by the High Court is just contrary to the law laid down by this Court in the Constitution Bench decision in the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129**. In paragraph 366, the Constitution Bench of this Court has observed and held as under:-
- 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 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

- A 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).
- B **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.
- C **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.”
- E 5. Applying the law laid down by this Court in the case of **Indore Development Authority (supra)** to the facts of the case on hand, more particularly, when the possession of the land in question is held to have been taken over by the DDA through LAC/ L&B Department on 21.03.2007 by drawing the panchnama and preparing the possession report, which is held to be permissible as observed and held by this court in the aforesaid decision. Under the circumstances, the impugned judgment and order passed by the High Court is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside,
- F Present appeal is accordingly allowed. No costs.
Pending application, if any, also stands disposed of.