

A GOVT. OF NCT DELHI & ANR.

V.

DINESH KUMAR & ANR.

(Civil Appeal No. 3151 of 2023)

B APRIL 28, 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) –

- C 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 compensation was paid for the suit land – Sustainability of – Held: Not sustainable – Possession of the disputed lands was taken on 31.12.2013 by drawing panchnama – Applying the law laid by this Court in Indore Development Authority the twin conditions of not taking possession and not paying compensation has to be satisfied – Thus, if one of the two ingredients of s. 24(2) is not met, there shall not be any deemed lapse of acquisition u/s. 24(2) – Thus, the order of the High Court is set aside – Land Acquisition Act, 1894.

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

Case Law Reference

- F [2020] (3) SCR 1 followed Para 4
CIVIL APPELLATE JURISDICTION : Civil Appeal No.3151
of 2023.

G From the Judgment and Order dated 06.07.2018 of the High Court of Delhi at New Delhi in WPC No.4954 of 2016.

Ms. Prachi Bajpai, Adv. for the Appellants.

Jaswant Singh Rawat, Virender Singh Tomar, Ms. Ikshita Parihar, Ms. Manika Tripathy, Ashutosh Kaushik, Advs. for the Respondent.

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The Judgment of the Court was delivered by

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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. 4954 of 2016, by which, the High Court has allowed the said writ petition 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 Govt. of NCT of Delhi has preferred the present appeal.

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2. Learned counsel appearing on behalf of the appellant(s) has submitted that in the present case the possession of the disputed land in question was taken on 31.12.2013 and therefore, as per the law laid-down by this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors., reported in (2020) 8 SCC 129** there shall not be any deemed lapse of acquisition under Section 24(2) of the Act, 2013.

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2.1 On the other hand, learned counsel appearing on behalf of the original writ petitioner – respondent No. 1 herein has submitted that the actual/physical possession is with the original writ petitioner and only a paper possession was taken. It is submitted that even the possession is alleged to be taken on 31.12.2013 and before that the Act, 2013 has come into effect. It is submitted that it is rightly observed and held by the High Court that as neither the compensation was paid nor the possession was taken, there shall be deemed lapse of acquisition under Section 24(2) of the Act, 2013.

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3. Having gone through the impugned judgment and order passed by the High Court, it appears that it was the specific case on behalf of the appellants that the possession of the land in question was taken over on 31.12.2013. The Act, 2013 has come into force w.e.f. 01.01.2014. Therefore, the date on which the Act, 2013 came into force the possession was already taken over.

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3.1 The submission on behalf of respondent No. 1 – original writ petitioner that only a paper possession was taken and actual/physical possession has not been taken is concerned, it is required to be noted that the possession of the land in question is taken over by drawing the

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- A punchnama which is held to be legal mode of taking the possession as per the decision of this Court in the case of **Indore Development Authority (supra)**. Therefore, we have to proceed on the premise that the possession of land in question was taken over. Even the High Court has also proceeded further with the matter not disputing that the possession of the land in question was taken on 31.12.2013. However, thereafter,
 - B on the ground that no compensation has been paid/tendered to the original writ petitioner, thus, one of the two ingredients of Section 24(2) of the Act, 2013 is met, the High Court has declared that the acquisition with respect to the land in question is deemed to have lapsed. The aforesaid reasoning and the findings given by the High Court is just contrary to the
 - C law laid -down by this Court in the case of **Indore Development Authority (supra)**. In the case of **Indore Development Authority (supra)**, it is observed and held that for deemed lapse under Section 24(2) of the Act, 2013, twin conditions of not taking possession and not tendering/paying the compensation are required to be satisfied. Therefore,
 - D if one of the two ingredients of Section 24(2) of the Act, 2013 is not met, there shall not be any deemed lapse of acquisition under Section 24(2) of the Act, 2013.

- 4. Applying the law laid down by this Court in the case of **Indore Development Authority (supra)** to the facts of the case on hand, the judgment and order passed by the High Court declaring that the acquisition with respect to the land in question is deemed to have lapsed is unsustainable and the same deserves to be quashed and set aside and is accordingly, quashed and set aside. Present appeal is accordingly allowed. No costs.
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Pending applications, if any, also stand disposed of.

Nidhi Jain
(Assisted by : Abhishek Pratap Singh, LCRA)

Appeal allowed.