

A NATIONAL CAPITAL TERRITORY OF DELHI & ORS.

v.

SUBHASH CHANDER KHATRI & ORS.

(Civil Appeal No. 1987 of 2023)

B APRIL 10, 2023

[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]

C *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 private respondent-writ petitioner seeking declaration that acquisition proceedings pertaining to subject land is deemed to have lapsed in view of s.24(2) – Department’s case that the possession of the subject land was taken over and used by the Department prior to 2013 and the compensation was not paid – High Court held the acquisition is deemed to have lapsed, however the original writ petitioner would be entitled to compensation under the Act – On appeal, held : Possession of the subject land was taken over and was put to use prior to 2013 Act came into force, there would be no deemed lapse of acquisition and the original writ petitioner not entitled to compensation under the Act – Impugned Judgment passed by the High Court not sustainable and set aside – Land Acquisition Act, 1897.*

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

F *Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors. (2014) 3 SCC 183 : [2014] (1) SCR 783 – referred to.*

Case Law Reference

G	[2014] 1 SCR 783	referred to	Para 2
	(2020) 8 SCC 129	followed	Para 2.1

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1987 of 2023.

H From the Judgment and Order dated 15.01.2018 of the High Court of Delhi at New Delhi in WP (C) No. 12143 of 2015.

Ms. Sujeeta Srivastava, Adv. for the Appellants. A

Ms. Aishwarya Bhati, A.S.G., Ms. Mridula Ray Bharadwaj,
Shreekant Neelappa Terdal, Bhuvan Kapoor, Saransh Kumar, Digvijay
Dam, Ms. Shivika Mehra, Dr. N. Visakamurthy, Advs. for the
Respondents.

The Judgment of the Court was delivered by B

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment
and order dated 15.01.2018 passed by the High Court of Delhi at New
Delhi in Writ Petition(C) No.12143 of 2015 by which the High Court has
allowed the said writ petition and has declared that the acquisition with
respect to the subject land 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”), however the High Court has observed and held that the
original writ petitioner would be entitled to compensation under the Act,
2013, the Land and Building Department of the NCT of Delhi and others
have preferred the present appeal. C D

2. From the impugned judgment and order passed by the High
Court, it appears that before the High Court it was the specific case on
behalf of the Department that the possession of the subject land has
been taken. However, thereafter relying upon the decision of this Court
in the case of **Pune Municipal Corporation and Anr. Vs. Harakchand
Misirimal Solanki and Ors.** reported in (2014) 3 SCC 183 and on
the ground that the compensation has not been paid, the High Court has
allowed the writ petition and has declared that the acquisition proceedings
with respect to the subject land are deemed to have lapsed under Section
24(2) of the Act, 2013. However, as the land in question was already put
to use by the beneficiary Department, the High Court has directed that
the original writ petitioner shall be entitled to the compensation under the
New Act. E F

2.1 Thus, even the High Court has accepted that the possession
of the land in question was already taken over and even the land was put
to use by the Department. Even the original writ petitioner also admitted
the same and therefore prayed that he be paid the compensation under
the Act, 2013. Once the possession of the subject land was taken over
and in fact was put to use prior to 2013 Act came into force, as per the G H

A law laid down by this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors. (2020) 8 SCC 129**, there shall not be any deemed lapse of acquisition. In paragraph 366 it is observed and held as under:-

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

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.

C 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.

D 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.

F 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

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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. A

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. B C

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 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). D

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. E F

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.” G H

A 3. In view of the above and once there shall be no deemed lapse
of acquisition under Section 24(2) of the Act, 2013, the original writ
petitioner shall not be entitled to the compensation as per the Act, 2013.
Under the circumstances the impugned judgment and order passed by
the High Court is unsustainable. as well as in the case of int eh case of
B cacy remedy is available to any aggrieved person.rs. present appeals
are against the

 4. In view of the above and for the reasons stated above, the
present appeal succeeds. The impugned judgment and order passed by
the High Court is hereby quashed and set aside. The original writ petition
C filed by the respondent no.1 herein filed before the High Court stands
dismissed accordingly.

 Present appeal is accordingly allowed. However, in the facts and
circumstances of the case, there shall be no order as to costs.

 Pending applications, if any, also stand disposed of.

Nidhi Jain
(Assisted by : Abhishek Agnihotri, LCRA)

Appeal allowed.