

DELHI DEVELOPMENT AUTHORITY

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v.

BEENA GUPTA (D) THROUGH LRS. & ORS.

(Civil Appeal No.9287 of 2022)

JANUARY 16, 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) – Lapse of acquisition – On facts, the subject land was acquired in the year 2007 by drawing panchnama – Same land was sold to the respondent no. 1 in 2010 by the owner – Writ petition by the respondent-original writ petitioner seeking declaration that acquisition proceedings pertaining to subject land is deemed to have lapsed in view of s.24(2) on the ground that the compensation was not paid – High Court allowed the petition – On appeal, held: Subsequent purchaser had no locus to challenge the acquisition and/or lapsing of the acquisition under the Act, 2013 – High Court erred in entertaining the writ petition filed by the respondent no.1, subsequent purchaser who had acquired the right, title or interest in the land in question subsequent to the acquisition proceedings, subsequent to passing of the award – Even otherwise, on merits also and in light of the decision in the case of Indore Development Authority’s case, the decision of the High Court is unsustainable – Thus, the impugned judgment and order passed by the High Court is quashed and set aside.*

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*Indore Development Authority versus Manoharlal and others (2020) 8 SCC 129 : [2020] 3 SCR 1 – followed.*

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*Shiv Kumar & Anr. Vs. Union of India & Ors. (2019) 10 SCC 229; Delhi Administration Through Secretary, Land and Building vs. Pawan Kumar & Ors., Civil Appeal No.3646 of 2022; Delhi Development Authority versus Godfrey Phillips (I) Ltd. & Ors, Civil Appeal No. 3073 of 2022 – relied on.*

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**Case Law Reference**

(2019) 10 SCC 229

relied on

Para 2.3

[2020] 3 SCR 1

followed

Para 2.4, 2.7

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A           CIVIL APPELLATE JURISDICTION : Civil Appeal No.9287 of 2022.

From the Judgment and Order dated 01.11.2018 of the High Court of Delhi at New Delhi in WP (C) No.3986 of 2018.

B           Ms. Malvika Kapila, Adv. for the Appellant.

Nitin Jain, Chand Qureshi, Ms. Sujeeta Srivastava, Advs. for the Respondents.

The Judgment of the Court was delivered by

**M. R. SHAH, J.**

C           1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 01.11.2018 passed by the High Court of Delhi at New Delhi in Writ Petition (Civil) No.3986 of 2018 by which the High Court has allowed the said writ petition preferred by the 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 ‘the Act 2013’), the Delhi Development Authority has preferred the present appeal.

E           2. At the outset, it is required to be noted that vide Notification dated 17.06.2005 issued under the provisions of Section 4 of the Land Acquisition Act, 1894 large tract of the land measuring about 200 Bighas falling in Village Mundaka was sought to be acquired. A declaration under Section 6 of the Act was issued and published thereafter on 31.05.2006. In the present case the dispute is with respect to the land measuring 1 Bigha and 2 Biswas out of Khasra No. 65/22/1. That, vide sale deed dated 17.06.2005, the said land was purchased by one Ashok Kumar and Raj Kumar Sharma. Thereafter, vide order dated 01.08.2005, the aforesaid persons came to be mutated in the revenue records. That thereafter vide GPA, Will, Affidavit, Agreement to sell and Receipt dated 11.05.2010 the aforesaid Raj Kumar Sharma sold 275 sq. yds. land, out of 11 Biswas owned by him, to respondent no.1 herein – original writ petitioner. Thus, the respondent no.1 – original writ petitioner can be said to be subsequent purchaser who acquired the right, title or interest in the land in question much after the land acquisition proceedings and the award was declared, which was declared on 31.05.2007.

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- 2.1 The respondent no.1 herein – original writ petitioner filed the writ petition before the High Court to declare that the acquisition with respect to the land in question is deemed to have lapsed under Section 24(2) of the Act, 2013 on the ground that the compensation with respect to the land in question is not paid. A
- 2.2 Though it was specifically the case on behalf of the appellant before the High Court so stated in the counter affidavit that the possession of the land in question was taken over on 15.12.2007 by drawing the panchnama and that the original writ petitioner being subsequent purchaser had no locus to challenge the acquisition, by the impugned judgment and order the High Court has entertained the writ petition preferred by respondent no.1 – 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 Act, 2013. B C D
- 2.3. As held by this Court in the case of **Shiv Kumar & Anr. Vs. Union of India & Ors. (2019) 10 SCC 229** which has been subsequently followed by this Court in the case of **Delhi Administration Through Secretary, Land and Building vs. Pawan Kumar & Ors., Civil Appeal No.3646 of 2022 and Delhi Development Authority versus Godfrey Phillips (I) Ltd. & Ors, Civil Appeal No.3073 of 2022**, the subsequent purchaser had no locus to challenge the acquisition and/or lapsing of the acquisition under the Act, 2013. Under the circumstances the High Court has seriously erred in entertaining the writ petition preferred by the respondent no.1 – original writ petitioner – subsequent purchaser who had acquired the right, title or interest in the land in question subsequent to the acquisition proceedings, subsequent to passing of the award. Under the circumstances the impugned judgment and order passed by the High Court is unsustainable. E F G
- 2.4 Even otherwise on merits also and in light of the subsequent decision of the Constitution Bench of this Court in the case of **Indore Development Authority versus Manoharlal and others** reported in **(2020) 8 SCC 129** the impugned H

A judgment and order passed by the High Court declaring the acquisition with respect to the land in question is deemed to have lapsed is unsustainable.

2.5 As observed hereinabove it was the specific case on behalf of the appellant before the High Court and so stated in the counter before the High Court that the possession of the land in question was taken over on 15.12.2007.

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2.6 In the case of **Indore Development Authority (supra)** the Constitution Bench of this Court in paragraph 366 has observed and held as under:-

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

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**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.

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**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.

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**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.

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**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- A  
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 B  
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 C  
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 D  
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 E  
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 F  
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 G  
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). H

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Present appeal is accordingly allowed. No costs.