

GOVERNMENT OF NCT OF DELHI & ANR.

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v.

MANJEET SINGH ANAND & ANR.

(Civil Appeal No. 360 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 – Subject land acquired in the year 1964, and in the year 1967 the physical possession of the land was taken by drawing panchnama as also compensation was deposited – Thereafter, writ petition by the respondent no. 1 claiming that the acquisition proceedings under the Land Acquisition Act with respect to the subject land deemed to have lapsed u/s. 24(2) – Allowed by the High Court – Sustainability of – Held: Not sustainable – Respondent no. 1-original writ petitioner not the recorded owner and he filed the writ petition on the basis of some documents, General Power of Attorney, receipts – Subsequent purchaser has no locus to challenge the acquisition – Impugned judgment contrary to law laid down by this Court in the Indore Development Authority's case – Thus, the High Court erred in entertaining the writ petition preferred at the instance of respondent No. 1-original writ petitioner and is quashed and set aside.

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

*Smt. Harbans Kaur Vs. Govt. of NCT of Delhi and Ors.
W.P.(C) 5358 of 2014, decided on 02.02.2015; Pune
Municipal Corporation and Anr. Vs. Harakchand
Misirimal Solanki and Ors. (2014) 3 SCC 183 : [2014]
(1) SCR 783; Shiv Kumar and Anr. Vs. Union of India
and Ors., (2019) 10 SCC 229; Delhi Development
Authority Vs. Godfrey Philips (I) Ltd. & Ors., Civil
Appeal No. 3073 of 2022, Delhi Administration Thr.
Secretary, Land and Building Department & Ors. Vs.
Pawan Kumar & Ors., - Civil Appeal No. 3646 of 2022-
referred to.*

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- | A | <u>Case Law Reference</u> | | |
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| | [2014] (1) SCR 783 | referred to | Para 2.1, 2.2 |
| | (2020) 8 SCC 129 | followed | Para 3 |
| | (2019) 10 SCC 229 | referred to | Para 2.3 |
| B | CIVIL APPELLATE JURISDICTION : Civil Appeal No.360 of 2023.

From the Judgment and Order dated 02.05.2017 of the High Court of Delhi at New Delhi in WP (C) No.7004 of 2015. | | |
| C | 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, | | |
| D | Ms. Astha Tyagi, Dinesh Chander Trehan, Ms. Diksha Narula, Advs. for the appearing parties. | | |
| The Judgment of the Court was delivered by
M. R. SHAH, J. | | | |
| E | 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. 7004 of 2015 by which the High Court has allowed the said writ petition preferred by the respondent No. 1 herein and has declared that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894") with regard | | |
| F | F 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 and Anr. have preferred the present appeal. | | |
| G | 2. In the present case, the land in question was acquired in the year 1964 and the notification under Section 4 of the Land Acquisition Act, 1894 was issued on 13.02.1964. Award was made on 12.05.1967. That according to the Land Acquisition Collector (LAC), the physical possession of the land in question was taken on 07.06.1967 and the compensation was duly deposited with the Reference Court on | | |
| H | 13.11.1967. That thereafter on the Act, 2013, coming into force, the | | |

respondent No. 1 – original writ petitioner on the basis of some documents – General Power of Attorney, receipts etc. filed the writ petition before the High Court and prayed for lapse of the acquisition under Section 24(2) of the Act, 2013. Though a specific plea was raised before the High Court that the respondent No. 1 – original writ petitioner has no locus to challenge the acquisition and the recorded owner is somebody else, relying upon the decision of the High Court in the case of **Smt. Harbans Kaur Vs. Govt. of NCT of Delhi and Ors.** [W.P.(C) 5358 of 2014, decided on 02.02.2015], the High Court has allowed the said writ petition.

2.1 From the impugned judgment and order passed by the High Court, it appears that in the case of **Smt. Harbans Kaur (supra)**, the High Court has relied upon the decision of this Court in the case of **Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors., (2014) 3 SCC 183**.

2.2 The decision of this Court in the case of **Pune Municipal Corporation and Anr. (supra)**, which was relied upon by the High Court while deciding the case of **Smt. Harbans Kaur (supra)**, has been specifically overruled by the Constitution Bench of this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129**. In paragraphs 365 and 366, the Constitution Bench of this Court has observed and held as under:-

“**365.** Resultantly, the decision rendered in Pune Municipal Corp. [Pune Municipal Corp. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] is hereby overruled and all other decisions in which Pune Municipal Corp. [Pune Municipal Corp. 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.

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

- 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.
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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. A

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). C

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

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- A 2.3 Even otherwise, the High Court has materially erred in entertaining the writ petition preferred by the respondent No. 1 herein. As per the case on behalf of the appellant and so stated in the counter affidavit, the respondent No. 1 – original writ petitioner was not the recorded owner and he filed the writ petition on the basis of some documents – General Power of Attorney, receipts etc. As held by this Court in the case of **Shiv Kumar and Anr. Vs. Union of India and Ors., (2019) 10 SCC 229** and in the subsequent decisions in the case of **Delhi Development Authority Vs. Godfrey Philips (I) Ltd. & Ors., - Civil Appeal No. 3073 of 2022** and **Delhi Administration Thr. Secretary, Land and Building Department & Ors. Vs. Pawan Kumar & Ors., - Civil Appeal No. 3646 of 2022**, the subsequent purchaser has no locus to challenge the acquisition / lapse of acquisition. Under the circumstances also, the High Court has committed a very serious error in entertaining the writ petition preferred at the instance of respondent No. 1 – original writ petitioner.
- D 3. In view of the above and applying the law laid down by this Court in the Constitution Bench decision in the case of **Indore Development Authority (supra)**, and when the acquisition was of the year 1964 and the possession was taken over in the year 1967 by drawing the panchnama [which is held to be taking the possession in accordance with law as observed and held by this Court in the case of **Indore Development Authority (supra)**], 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.
- E Present appeal is accordingly allowed. No costs.
- F Pending application, if any, also stands disposed of.

Nidhi Jain
(Assisted by : Abhishek Agnihotri, LCRA)

Appeal allowed.