

# Man Singh & Ors vs Union Of India & Anr on 6 April, 2022

**Author: Mukta Gupta**

**Bench: Mukta Gupta, Neena Bansal Krishna**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 3643/2016  
MAN SINGH & ORS

Represented by: Mr. Anil Kumar, Advocates

Versus

UNION OF INDIA & ANR

Represented by: Mr. Yeeshu Jain, Stand  
Counsel with Ms. Jyoti  
Advocate for R-1.  
Mr. Kunal Sharma & Mr.  
Nargotra, Advocates  
R-2/DDA.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA  
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA  
ORDER

% 06.04.2022 CM APPL. 47125/2019(Delay of 70 days in filing application for restoration of the writ petition)

1. By this application, the petitioners/applicants seek condonation of 70 days' delay in filing the application for restoration of the writ petition.

2. For the reasons stated in the application, delay of 70 days in filing the application for restoration of the writ petition is condoned.

3. Application is disposed of.

CM APPL. 47126/2019 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application is disposed of.

CM APPL. 47124/2019 (Recalling of order dated 11th July, 2019)

1. By this application, the petitioners seek recalling of the order dated 11th July, 2019 whereby the writ petition was dismissed for non- prosecution.

2. Learned counsel for the petitioners/applicants states that due to the mistake of the clerk of the learned counsel for the petitioners, the next date could not be entered in the case diary as maintained for the year 2019 and thus, the case could not be tracked on the next date of hearing i.e., 11th July, 2019. In the meantime, the mother of the learned counsel for the petitioners suffered a brain stroke, remained hospitalized and was on continuous treatment since 23rd May, 2019, causing disturbance in the working of the learned counsel. It is for this reason that neither the learned counsel for the petitioners nor the petitioners appeared, resulting in the dismissal of the petition for non- prosecution.

3. Considering the explanation rendered and the arguments addressed, the order dated 11th July, 2019 is recalled and the writ petition is restored to its original position. W.P.(C) 3643/2016

1. By this petition, the petitioners have sought a declaration that the notification dated 24th October, 1961 under Section 4 of the Land Acquisition Act, 1894 (in short 'the LAA') followed by the declaration under Section 6 of the LAA and the Award No. 50/1980-81 dated 18th July, 1980 in respect of 1/4th share belonging to Lakhi Ram of the land of the petitioners ad measuring 5 bighas 8 biswas comprising Khasra Nos. 957/201 (0-19), 959/201 (0-19), 202 min (1-100), 960/203 (1-0), 962/203 (0-4) and 211 min (1-0) situated in the revenue estate of Village Haider Pur, Delhi have lapsed in view of the Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the Act').

2. Claim of the petitioners that the proceedings be declared as lapsed under Section 24 of the Act, is challenged by the learned counsel for the respondent No. 1 on two aspects, firstly, that the Act has no application to the proceedings initiated for which the Award dated 18th July, 1980 was passed as the said Act applies to acquisition proceedings which commenced after 01st January, 2014 and secondly in view of the decision of the Hon'ble Supreme Court in Indore Development Authority vs. Manoharlal & Ors. (2020) 8 SCC 129, since compensation amount has been paid, the proceedings have not been lapsed.

3. Para 363 of the judgement of the Constitution Bench of the Hon'ble Supreme Court rendered in Indore Development Authority (supra) reads as under:

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

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 Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

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 Act of 2013 under the Act of 1894 as if it

has not been repealed.

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 Act of 2013 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.

4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 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 Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, 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). Land owners 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 Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 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 Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

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 Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority 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.

9. Section 24(2) of the Act of 2013 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 Act of 2013, 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."

4. The main fact undisputed in this petition by the parties is that even after the issuance of the notification under Section 4 of the Land Acquisition Act, 1894 dated 24th October, 1961 and the Award No. 50/1980-81 dated 18th July, 1980, till date, the possession of the land continues with the petitioners, who are legal heirs of the recorded owner of the property.

5. One of the issues urged by learned counsel for the petitioners is that since no possession has been taken pursuant to the award, whether the petitioners can still seek denotification of the land if it is no more required by the Government.

6. Before the matter is heard, it would be appropriate to call for an affidavit from the respondent No. 2-DDA as to whether the land of the petitioners is still required by them for the planned development and if so, for what purpose.

7. Affidavit of the respondent No. 2 be filed within two weeks with advance copy to learned counsel for the petitioners.

8. List on 12th May, 2022.

9. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

NEENA BANSAL KRISHNA, J.

APRIL 06, 2022 S.Sharma