

Manpreet Singh vs Union Of India & Ors on 2 March, 2024

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 3229/2024 & CM APPL. 13300-13301
MANPREET SINGH

UNION OF INDIA & ORS.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

% 02.03.2024 CM APPL. 13301/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

W.P.(C) 3229/2024 & CM APPL. 13300/2024

3. At the outset learned Senior Counsel appearing for the petitioner submits that since the present petition has been listed on urgent This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:33 mentioning, there are certain facts which could not be brought before this Court. Thus, in order to bring the whole picture before this Court, an additional affidavit has been filed.

4. Learned Senior Counsel appearing for the petitioner has handed over a physical copy of the said additional affidavit, which is taken on record.

5. The present petition has been filed with the following prayers:

"a) An appropriate Writ, order, or directions in the nature of Mandamus thereby restraining the Respondents from taking any action with respect to the land comprised in Khasra No. 1199 Min (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4-16) and 1204 Min (1-10) admeasuring a total of 12 Bighas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi, which is in contravention and beyond the scope and Khasra Numbers mentioned in the Notice dated 17.07.2023; and Pass any such other and further orders as this Hon 'ble Court may deem fit and proper in light of the facts and circumstances of the present case."

(Emphasis Supplied)

6. Learned Senior Counsel appearing for the petitioner submits that vide notification dated 25th November, 1980, the land in question was notified under Section 4 of the Land Acquisition Act, 1894 for the purposes of acquisition and subsequently was further notified vide notification dated 07th June, 1985 under Section 6 of the Land Acquisition Act, 1894. Pursuant to the aforesaid notification, the Land Acquisition Collector vide Award No. 15/87-88 dated 05th June, 1987, ordered acquisition of the land notified under the above said notifications.

7. It is submitted that subsequently the petitioner filed a writ petition being W.P.(C) No. 9490/2015 and vide judgment dated 08th January, This is a digitally signed order.

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8. Learned Senior Counsel for petitioner further submits that the land of the petitioner falls in three categories. He submits that the first parcel of the land pertains to the portions which are covered by judgment dated 08th January, 2018, in W.P.(C) 9490/2015, vide which a declaration was given by a Division Bench of this Court that the acquisition pertaining to certain lands of the petitioner, stands lapsed.

9. He submits, that the second parcel of land is covered by the judgment dated 30th January, 2018, passed in W.P.(C) No. 11230/2015. Vide the said judgment, the Division Bench of this Court had held the acquisition in respect of certain portions of petitioner's lands, to have lapsed. However, the Supreme Court by its judgment dated 16th January, 2023 in Civil Appeal No. 277/2023, has allowed the appeal of the Delhi Development Authority ("DDA") and set aside the judgment dated 30th January, 2018. It is further submitted that against the said judgment dated 16th January, 2023, a Review Petition filed by the petitioner is pending before the Supreme Court.

10. He further submits that the third parcel of land pertains to those portions of the land of the petitioner that already stands acquired by the respondents. Therefore, qua the said parcel of land, the petitioner is not claiming any right since the same already stands acquired.

11. Attention of this Court has been drawn to the additional affidavit filed today on behalf of the petitioner, the relevant portions of which, that have been relied upon by the Senior Counsels, are extracted as below:

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5. It is submitted that the Deponent/Petitioner filed Writ Petition (C) No. 9490/2015 before this Hon ble Court with respect to Khasra Nos. 1202 Min (3-0), 1209 (0-5), 1210 Min (4-5) and 1211 Min (4-10) admeasuring about 2.5 Acres.

Vide judgment dated 08.01.2018, the said Petition was allowed. It is the apprehension of the Petitioner that despite of having a favourable judgment with respect to the lapsing of the acquisition, DDA might take possession of the said land. The said judgment has not been set aside. No appeal has been filed to the best knowledge of the Deponent/ Petitioner. True copy of the judgment dated 08.01.2018 passed in Writ Petition (C) No. 9490/2015 by this Hon ble Court is annexed herewith and marked as Annexure A-1.

6. Various other Writ Petitions were filed before this Hon ble Court bearing Nos. 1597/2018, 940/2018, 11230/2015, 1069/2016 and 5044/2017. Out of the aforesaid Writ Petitions, only Writ Petition (C) No. 11230/2015 came to be allowed by this Hon ble Court vide judgment dated 30.01.2018. This land was also approximately 2.5 Acres. This judgment was upset by the Hon ble Supreme Court vide judgement dated 16.01.2023 passed in Civil Appeal Nos. 277/2023 and 278/2023. True copy of the dated 16.01.2023 passed in Civil Appeal Nos. 277/2023 and 278/2023 by the Hon ble Supreme Court is annexed herewith and marked as Annexure A-2.

7. However Review Petitions bearing Diary Nos. 31719/2023 and 32367/2023 are still pending before the Hon ble Supreme Court. True copies of the Case Status of Diary Nos. 31719/2023 and 32367/2023 are collective annexed herewith and marked as Annexure A-3 (Colly.). True copy of one of the Review Petitioners is annexed herewith and marked as Annexure A-4. It may be stated that a large number of cases are still pending in Supreme Court wherein the Supreme Court in some matters has granted interim protection till judgment is pronounced. True copy of interim order dated 12.02.2024 passed by the Hon ble Supreme Court in Civil Appeal No. 297/2023 is annexed herewith and marked as Annexure A-5.

8. A reference to Page 63 of the paperbook would show that notice of possession is limited to a total of about 43 Acres, This is a digitally signed order.

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comprised in about 16.5 Acres, following two parcels of land should not be touched by the Respondents a. 2.5 Acres under judgment of this Court in Writ Petition (C) No. 9490/2015; and b. 2.5 Acres where review is sought of Hon ble Supreme Court of judgment dated 16.01.2013, and is pending.

9. Therefore, a proper survey is required to be conducted whereby the areas mentioned in notice dated 17.07.2023 are earmarked and the aforesaid area of 5 acres is earmarked. Needless to add that the Respondents are acting in high- handed manner in working without issuance of any notice for dispossession or demolition.

xxx xxx xxx"

12. Learned Senior Counsel for the petitioner has also drawn the attention of this Court to the order dated 12th February, 2024 passed by the Supreme Court in Civil Appeal No. 397/2023, wherein the Supreme Court has directed that status quo is to be maintained regarding further demolition till the pronouncement of the judgment in SLP (C) 26697/2019 and other connected cases. It is submitted that though the present case is not covered by the aforesaid order dated 12 th February, 2024 passed by the Supreme Court, however, this Court ought to grant status quo in favor of the petitioner, considering the fact that review petition of the petitioner is pending before the Supreme Court against the judgment dated 16th January, 2023 passed in Civil Appeal No. 277/2023.

13. Per contra, learned counsel appearing for the respondents have drawn the attention of this Court to the order dated 29th July, 2019 passed in W.P.(C) No. 1069/2016. It is submitted that by way of the said This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:33 order dated 29th July, 2019, the writ petition filed by the petitioner qua the same khasra numbers, which are subject matter of the present writ petition, has been rejected.

14. It is further submitted that no appeal was filed by the petitioner against the said order dated 29th July, 2019, therefore, the same has attained finality.

15. Learned counsel appearing for the respondents also rely upon the judgment in the case of Ms. Meera Sahni Versus Lieutenant Governor of Delhi and Others, (2008) 9 SCC 177 to contend that the petitioner being a subsequent purchaser of the land, has no right over the land in question after the acquisition has already taken place.

16. It is further submitted that the whole land, as claimed by the petitioner, stands acquired. It is submitted that even the judgment dated 08th January, 2018 passed in W.P.(C) No. 9490/2015, stands overruled in view of the judgment of the Constitution

Bench of Supreme Court in the case of Indore Development Authority Versus Manohar Lal and Others, (2020) 8 SCC 129. Learned counsel appearing for the respondents relies upon paragraph 365 of the said judgment, which reads as under:

"xxx xxx xxx

365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. V. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. V. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] 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 : (2015) 2 SCC (Civ) 298] cannot be said to be laying down good law, is This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:33 overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra [Indore Development Authority v. Shailendra, (2018) 3 SCC 412 : (2018) 2 SCC (Civ) 426] , 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.

xxx xxx xxx"

(Emphasis Supplied)

17. Learned counsel appearing for the respondents also relies upon the Judgment dated 21st February, 2024 in the case of Chetan Rana Versus Delhi Development Authority and Others passed in W.P.(C) No. 2753/2024, to contend that where acquisition of land has already taken place, there is no question of any stay in favor of a private party.

18. It is further submitted by learned counsels appearing for respondents that while in Para-1 of the petition, land claimed to be under the ownership of the petitioner is stated to be 10 bighas, the prayer clause in the present case claims the land to be 12 bighas.

19. Responding to the aforesaid submissions made on behalf of the respondents, in rejoinder, learned Senior Counsel appearing for the petitioner submits that the contention of the petitioner with respect to the judgment dated 08th January, 2018 in W.P.(C) No. 9490/2015 having been overruled, does not mean that the inter se rights between the parties have been disrupted. Learned Senior Counsel relies upon the judgment in the case of Neelima Srivastava Versus State of Uttar Pradesh and Others, (2021) 17 SCC 693 to submit that even if a judgment has been overruled, it does not have the effect of disrupting the inter se rights between the parties. Learned Senior Counsel

relies upon the paragraph This is a digitally signed order.

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"xxx xxx xxx

29. It becomes absolutely clear from the above clarification that earlier decisions running counter to the principles settled in the decision of Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] will not be treated as precedents. It cannot mean that the judgment of a competent court delivered prior to the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] and which has attained finality and is binding inter se between the parties need not be implemented.

Mere overruling of the principles, on which the earlier judgment was passed, by a subsequent judgment of higher forum will not have the effect of uprooting the final adjudication between the parties and set it at naught. There is a distinction between overruling a principle and reversal of the judgment. The judgment in question itself has to be assailed and got rid of in a manner known to or recognised by law. Mere overruling of the principles by a subsequent judgment will not dilute the binding effect of the decision inter partes.

xxx xxx xxx"

(Emphasis Supplied)

20. Learned Senior Counsel for petitioner further submits that part of the house of the petitioner falls in Khasra no. 1202 Min (3-0), qua which there is a judgment dated 08th January, 2018 in favor of the petitioner. He, thus, submits that in the absence of the demarcation of the land in question, the DDA cannot take possession of the land. It is submitted that action is sought to be taken by the DDA, without service of any notice to the petitioner.

21. Learned Senior Counsel also submits that the reliance by the respondents on the judgment of Ms. Meera Sahni (supra) is totally misplaced, as by virtue of order dated 08 th January, 2018 in W.P.(C) No. 9490/2015, the rights of the petitioner have been recognized by Division This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34 Bench of this Court, as there is a declaration in favor of the petitioner with respect to the acquisition having been lapsed.

22. I have heard learned counsels for the parties and have perused the record.

23. Issue notice. Notice is accepted by learned counsel appearing for respondent nos. 2, 3 and 4.

24. Issue notice to respondent nos. 1 and 5.

25. This Court notes that the khasra numbers, which are subject matter of the present petition, as mentioned in the prayer clause, are as follows:

Khasra Nos. 1199 Min (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4-16) and 1204 Min (1-10) admeasuring a total of 12 Bighas, situated in the Revenue Estate of Village Chattarpur, Tehsil Hauz Khas, New Delhi.

26. This Court also notes that with respect to the same khasra numbers, the petitioner had filed a writ petition being W.P.(C) 1069/2016. The said writ petition had been filed challenging the acquisition proceedings qua the same khasra numbers which are subject matter of the present petition. By order dated 29 th July, 2019, the writ petition filed by the petitioner was dismissed. The order dated 29 th July, 2019 passed by Division Bench of this Court in W.P.(C) No. 1069/2016 reads as under:

"1. The prayers in the petition read as under:

"a) An appropriate Writ, order, or directions quashing the Notification No.F-9 (16)/80-L&B dated 25.11.1980 issued under Section 4 of the Land Acquisition Act, 1894, and Notification No.F-9(26)/85-L85B dated 07.06.1985 issued under Section 6 of the Land This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34 Acquisition Act, 1894; and

b) An appropriate Writ, order, or directions quashing the Award No. 15/87-88 dated 05.06.1987 published under section 11 of the Land Acquisition Act, 1894, in respect of 5/6th undivided share equivalent to 10 Bighas out of the land and building comprised in Khasra No. 1199 Min (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4-16) and 1204 Min (1-10) admeasuring a total of 12 Bighas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi; and

c) An appropriate Writ, order, or directions restraining the Respondents from taking physical possession of the land of the Petitioner having 5/6th undivided share equivalent to 10 Bighas out of the land and building comprised in Khasra No. 1199 Min (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4-16) and 1204 Min (1-10) admeasuring a total of 12 Bighas, situated in the Revenue Estate Village Chattarpur, Tehsil Hauz Khas, New Delhi in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

and

d) An appropriate writ, order, or direction declaring that the land acquisition proceedings in respect of the subject land have lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013."

2. It is stated in the petition that "the Petitioner is the owner and is in possession of agricultural land admeasuring 12 Bighas bearing Khasra No. 1199 (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4-16) and 1204 Min (1-10) totaling 10 Bigha situated in the Village Chattarpur, Tehsil Hauz Khas, New Delhi", to the extent of 5/6th share i.e. 10 Bighas. It is stated that the Petitioner purchased the said land from (1) Shri Sharwan Kumar Sahni, (2) Shri Subhash Sahni and (3) M/s Kaushalya Farms Pvt. Ltd by a registered Assignment Deed dated 5th March 2015. The three entities from whom the Petitioner purchased the said land were all acting through a GPA holder Shri Lalit Kapoor. The Petitioner states that the This is a digitally signed order.

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3. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 („LAA) was issued on 25th November 1980, followed by declaration under Section 6 of the LAA on 7th June 1985. The impugned Award No. 15/87-88 was passed on 5th June 1987. There is no explanation in the petition for the inordinate delay in approaching the Court for relief.

4. In the counter-affidavit filed on behalf of the LAC, it is submitted that against the said acquisition proceedings, the affected parties challenged the same in Balak Ram Gupta v. Union of India in which batch of petitions were allowed by this Court by judgment dated 18th November 1988 as the Notification issued under Section 6 LAA was quashed. It is submitted that the petitioner never challenged the notifications issued under Sections 4 and 6 LAA. It is further submitted that the possession of Khasra No. 1199 (0-18), 1200 Min (3-0), 1202 Min (1-16), 1203 Min (4- 16) and 1204 Min (1-10) could not be taken. On the aspect of compensation, it is stated that:

"The compensation for the same was sent to the ADJ court vide Cheque no. 156956 dated 27.12.2013 in the name of Smt. Angoori Devi D/o Kalu, as amount as of Rs.507811.06, Jitender Singh S/o Pokar Singh as amount of Rs.603496.25, Ram Singh S/o Parbuas amount of Rs.301748.12, Daya Nand S/o Parbu as amount of Rs.301748.12, Ram Chander S/o Natha as amount of Rs.305353.02, Ram Singh S/o Natha as amount of Rs.305353.02, Phool Singh S/o Natha as amount of Rs.305353.02, nobody turned up to claim compensation."

5. In the counter-affidavit filed by the DDA, it is submitted that the petition is barred by delay and laches. It is further submitted that as per the land records, the physical possession of the subject land was not handed over by the LAC. It is submitted that an amount of Rs.100 Crores was remitted to the LAC with respect to compensation for 13 villages which This is a digitally signed order.

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6. No Rejoinder has been filed by the Petitioner to the counter affidavits of the LAC or the DDA.

7. The assertion by the Petitioner that he continues to remain in possession of the land in question or that the compensation has not been tendered gives rise to disputed questions of fact which cannot be examined in this petition. The fact further remains that the Petitioner has no explanation to offer for the inordinate delay in approaching the Court for the relief.

8. On the aspect of laches, in *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 a three Judge Bench of the Supreme Court observed as under:

"130. We are of the view that stale or dead claims cannot be the subject-matter of judicial probing under section 24 of the Act of 2013. The provisions of section 24 do not invalidate those judgment/orders of the courts where under rights/claims have been lost/ egative, neither do they revive those rights which have become barred, either due to inaction or otherwise by operation of law. Fraudulent and stale claims are not at all to be raised under the guise of section 24. Misuse of provisions of section 24(2) cannot be permitted. Protection by the courts in cases of such blatant misuse of the provisions of law could never have been the intention behind enacting the provisions of section 24 (2) of the 2013 Act; and, by the decision laid down in *Pune Municipal Corporation* (supra), and this Court never, even for a moment, intended that such cases would be received or entertained by the courts."

9. It may be noted here that the reference made by a Constitution Bench in *Indore Development Authority v. Shyam Verma* (2018) 4 SCC 405 regarding the correctness of the aforesaid decision in *Indore Development Authority v. Shailendra* (supra) is as regards the extent to which it differs from the earlier view of the Supreme Court in *Pune Municipal Corporation v. Harakchand Misrimal Solanki* (2014) 3 SCC 183 regarding the tendering of compensation, and on certain other issues but not on the question of petitions seeking declaration under Section 24 (2) of the 2013 Act being barred This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34 by laches. This legal position was explained by this Court recently in *Mool Chand v. Union of India* 2019 (173) DRJ 595 DB.

10. For the aforementioned reasons, the writ petition is dismissed both on the ground of laches as well as on merits, but in the circumstances, with no orders as to costs. The interim order dated 12th February 2016 passed by this court which stood confirmed on 21st November 2017 is hereby vacated."

(Emphasis Supplied)

27. Thus, perusal of the aforesaid clearly shows that as regards the Khasra numbers, which are subject matter of the present petition, there is an acquisition award, which has not been quashed by any court of law. Rather, the petition filed on behalf of the petitioner was dismissed categorically by the Division Bench of this Court.

28. Learned Senior Counsel appearing for the petitioner has contended that part of the house of the petitioner falls in the Khasra number 1202, which also forms subject matter of judgment dated 08 th January, 2018, in W.P.(C) 9490/2015. Thus, it is prayed that directions be issued to the respondents to demarcate the area in question before taking any further demolition action. However, the said contention is totally misplaced.

29. This Court notes that the Khasra numbers which are subject matter of the present writ petition, already stand acquired and the challenge of the petitioner with respect to the same already stands rejected by Division Bench of this Court vide order dated 29th July, 2019 in W.P.(C) 1069/2016.

30. This Court also notes that it is an admitted position that the order dated 29th July, 2019 passed in W.P.(C) No. 1069/2016 was never challenged by the petitioner. Therefore, the said order has attained This is a digitally signed order.

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31. Further, this Court notes that the present petition does not deal with the Khasra numbers which are part of order dated 08 th January, 2018 in W.P.(C) No. 9490/2015, which constitute a separate chunk of land. For the sake of convenience, paragraph 1 of the order dated 08 th January, 2018 in W.P.(C) No. 9490/2015 is extracted as below:

"1. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The petitioner seeks a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra nos.1202 min (3-0), 1209 (0-5), 1210 min (4-5) and 1211 min (4-10), total measuring 12 bigha, situated in the revenue estate of village Chattarpur, Tehsil Hauz Khas, New Delhi (hereinafter referred to as „the subject land) stands lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the „2013 Act), as partial compensation has been paid, but possession has not been taken over.

xxx xxx xxx"

32. Reading of the aforesaid clearly shows that the chunk of land which is subject matter of the present writ petition is totally separate from the chunk of land as involved in judgment dated 08th January, 2018 in W.P.(C) No. 9490/2015.

33. This Court notes that the land in question already stands acquired by way of Award No. 15/87-88 dated 05th June, 1987. The petition filed by the petitioner for quashing the said Award has already been dismissed by Division Bench of this Court vide order dated 29 th July, 2019 passed in W.P.(C) 1069/2016. Admittedly, no appeal has been filed against the said order, which has attained finality.

34. Law in this regard is very clear that once land has been acquired, This is a digitally signed order.

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"xxx xxx xxx

12. The issue as to what is meant by "possession of the land by the State after its acquisition" has also been considered by Constitution Bench of Hon'ble Supreme Court in Indore Development Authority's case (supra). It is opined therein that after the acquisition of land and passing of award, the land vests in the State free from all encumbrances. The vesting of land with the State is with possession. Any person retaining the possession thereafter has to be treated trespasser. When large chunk of land is acquired, the State is not supposed to put some person or police force to retain the possession and start cultivating on the land till it is utilized. The Government is also not supposed to start residing or physically occupying the same once process of the acquisition is complete. If after the process of acquisition is complete and land vest in the State free from all encumbrances with possession, any person retaining the land or any re-entry made by any person is nothing else but trespass on the State land. Relevant paragraphs 244, 245 and 256 are extracted below:

"244. Section 16 of the Act of 1894 provided that possession of land may be taken by the State Government after passing of an award and thereupon land vest free from all encumbrances in the State Government. Similar are the provisions made in the case of urgency in Section 17(1). The word "possession" has been used in the Act of 1894, whereas in Section 24(2) of Act of 2013, the expression "physical possession" is used. It is submitted that drawing of panchnama for taking over the possession is not

enough when the actual physical possession remained with the landowner and Section 24(2) requires actual physical possession to be taken, not the possession in any other form. When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. The act of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34 vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances.

245. The question which arises whether there is any difference between taking possession under the Act of 1894 and the expression "physical possession" used in Section 24(2). As a matter of fact, what was contemplated under the Act of 1894, by taking the possession meant only physical possession of the land. Taking over the possession under the Act of 2013 always amounted to taking over physical possession of the land. When the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the physical possession of the land. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts residing in the outhouse, etc., is deemed to be the trespasser on land which in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case.

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256. Thus, it is apparent that vesting is with possession and the statute has provided under Sections 16 and 17 of the Act of 1894 that once possession is taken, absolute vesting occurred. It is an indefeasible right and vesting is with possession thereafter. The vesting specified under Section 16, takes place after various steps, such as, notification under Section 4, declaration under Section 6, notice under Section 9, award under Section 11 and then possession. The statutory provision of vesting of property absolutely free from all encumbrances has to be accorded full effect. Not only the possession vests in the State but all other encumbrances are also removed forthwith. The title of the landholder ceases and the state becomes the absolute owner and in possession of the property. Thereafter there is no control of the landowner over the property. He cannot have any animus to take This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34 the property and to control it. Even if he has retained the possession or otherwise trespassed upon it after possession has been taken by the State, he is a trespasser and such possession of trespasser enures for his benefit and on behalf of the owner."

(Emphasis Supplied) xxx xxx xxx"

35. In view of the aforesaid, no case has been made out by the petitioner for grant of any interim order in his favour.

36. Let reply be filed by the respondents within a period of four weeks.

37. Rejoinder thereto, if any, within two weeks thereafter.

38. Re-notify on 06th May, 2024.

MINI PUSHKARNA, J MARCH 2, 2024/kr This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 05/03/2024 at 00:03:34