2023 INSC 221

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 1458 OF 2023**
**(@ SLP (C) NO. 4273 OF 2023)**
**(@ DIARY NO. 29127 OF 2022)**

**Govt. of NCT of Delhi & Anr.** **…Appellant(s)**

**Versus**

**Manjeet Kaur & Anr.** **…Respondent(s)**

**J U D G M E N T**

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

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. 6158 of 2016, by which, the High Court has allowed the said writ petition and has declared that the acquisition proceedings with respect to Khasra No. 668/1 min (0-12) and 668/2 (01-08) total admeasuring 2 bighas situated at the Revenue Estate of Village Satbari, New Delhi, are 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 & Anr. have preferred the present appeal.

2. Heard learned counsel appearing on behalf of the respective parties at length and perused the impugned judgment and order passed by the High Court. From the impugned judgment and order passed by the High Court, it appears that the High Court has allowed the writ petition 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, relying 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**, and by observing that neither the possession of the land in question has been taken nor the compensation has been tendered/paid as per the law laid down by this Court in the case of **Pune Municipal Corporation (supra).**

3. However, it is required to be noted that before the High Court, it was the specific case on behalf of the appellant(s) that original writ petitioner being the subsequent purchaser had no locus to challenge the acquisition/deemed lapse of acquisition. Even from the averments made in original writ petition, the original writ petitioner claimed the ownership on the basis of the agreement to

sell, assignment deed, receipt and possession letter, electricity bill and property tax bill (para 2), the word “sale deed” is inserted by ink. However, no sale deed is forthcoming, thus, the original writ petitioner claimed the ownership and in possession of the agreement to sell, assignment deed, be that as it may, original writ petitioner or the subsequent purchaser. Though, it was the specific case on behalf of the appellant(s) that the original writ petitioner or the subsequent purchaser has no locus to challenge the acquisition/deemed lapse acquisition but the High Court has not dealt with the same. Whether the subsequent purchaser has no locus to challenge the acquisition/deemed lapse acquisition is not *res integra* in view of the decision of this Court in the case of **Shiv Kumar & Anr. Vs. Union of India & Ors. (2019) 10 SCC 229** and subsequent decision of this Court in the case of **Delhi Development Authority Vs. Godfrey Philips (I) Ltd. & Ors. Civil Appeal No. 3073/2022.**

4. In the case of **Godfrey Philips (I) Ltd. (supra)** after considering the other decisions on the locus of the subsequent purchaser to claim lapse of acquisition proceedings, i.e., **Shiv Kumar (supra)**, **Meera Sahni Vs. Lieutenant Governor of Delhi & Ors., (2008) 9 SCC 173** and **M. Venkatesh & Ors. Vs. Commissioner, Bangalore Development Authority (2015) 17 SCC 1**, it is

specifically observed and held that the subsequent purchaser has no locus to claim lapse of acquisition proceedings. The decision of this Court in the case of **Shiv Kumar (supra)** has been subsequently followed by this Court in catena of decisions.

5. In view of the above, the High Court has seriously erred in declaring that the acquisition in respect of the land in question is deemed to have lapsed in writ petition filed by the original writ petitioner – subsequent purchaser.

6. Even otherwise, it is required to be noted that in the present case, the possession of the land in question could not be taken by the authority due to pending litigation/stay. The decision of this Court in the case of **Pune Municipal Corporation (supra)** has been overruled by the Constitution Bench of this Court in the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129**. In paragraph 366, the Constitution Bench of this Court has observed and held as under:-

> **"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.

**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.

**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.

**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.

**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.

**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).

**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.

**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."

7. Applying the law laid down by this Court in the cases of **Shiv Kumar (supra)**, **Godfrey Philips (I) Ltd. (supra)** and the decision of 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. There shall be no deemed lapse of the acquisition with respect to the land in question. The original writ petition before the High Court stands dismissed.

Present appeal is accordingly allowed. No costs.

Pending applications, if any, also stand disposed of.

…….J.
**[M.R. SHAH]**

NEW DELHI; …….J.
MARCH 13, 2023. **[C.T. RAVIKUMAR]**