2023 INSC 68

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 363 OF 2023
(@ SLP (C) NO. 1500 OF 2023)
(@ DIARY NO. 6078 OF 2022)

Delhi Development Authority **…Appellant(s)**

Versus

Rajesh Dua and Ors. **…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. 6478 of 2017 by which the High Court has allowed the said writ petition preferred by the respondent Nos. 1 and 2 herein and has declared that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894") with regard 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 Delhi Development Authority (DDA) has preferred the present appeal.

2. In the present case, the land in question was acquired in the year 1964 and the award was declared in the year 1967. According to the Land Acquisition Collector (LAC) and so stated in the counter affidavit filed before the High Court, the possession of the land in question was taken over in the year 1967 by drawing the panchnama. The compensation with respect to the land in question was duly deposited with the Reference Court in the year 1967 itself. That thereafter the respondent Nos. 1 and 2 herein – original writ petitioners filed the writ petition before the High Court in the year 2017 and prayed 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 as the compensation was not actually tendered/paid to the landowners. Relying upon its earlier decision 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], in which after 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**, it was held that the depositing of the amount of compensation with the Reference Court cannot be regarded as compensation having been paid to the landowners and the High

Court by the impugned judgment and order has allowed the writ petition and has declared that the acquisition with respect to the land in question is deemed to have lapsed as actual physical possession of the subject land has not been taken over by the land acquiring agency. Feeling aggrieved and dissatisfied with the impugned judgment and order, the Delhi Development Authority has preferred the present appeal.

3. We have heard the learned counsel appearing on behalf of the respective parties at length.

4. At the outset, it is required to be noted that according to the LAC, the amount of compensation was deposited with the Reference Court in the year 1967. Even the possession of the land in question was taken over by drawing the panchnama, which is a permissible mode as observed and held by this Court in the Constitution Bench decision in the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129.**

4.1 Even otherwise, it is required to be noted that while deciding the case of **Smt. Harbans Kaur (supra)**, the High Court has relied upon the earlier decision of this Court in the case of **Pune Municipal Corporation and Anr (supra).** However, the decision of this Court in the case of **Pune Municipal Corporation and Anr. (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 Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. 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.
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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.

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.”

5. Applying the law laid down by this Court in the case of **Indore Development Authority (supra)**, and considering the fact that the compensation with respect to the land in question was deposited in the Reference Court in the year 1967 and that between 1967 and 2017, nothing is on record to show that the writ petitioners were praying and/or a grievance was made by the original landowners with respect to non-payment of compensation and that the possession of the land in question was stated to be taken in the year 1967 by drawing the panchnama, 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.

Present appeal is accordingly allowed. No costs.

Pending application, if any, also stands disposed of.

…….J.
[M.R. SHAH]

NEW DELHI;
JANUARY 20, 2023.

…….J.
[C.T. RAVIKUMAR]