

25.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1801 OF 2023
(Arising out of SLP (C) No. 11190/2018)

DELHI DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

SOHAN LAL AND ORS.

Respondent(s)

O R D E R

1. Though served, none has appeared on behalf of the contesting respondents.

2. Leave granted.

3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 31.01.2018 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No.5428 of 2015, by which the High Court has allowed the said 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act"), the Delhi Development Authority has preferred the present appeal.

4. It is the case on behalf of the appellant and even so recorded in the impugned order that the possession of the land in question was taken over on 16.07.1987. However thereafter, and despite the above, relying upon the earlier decision of this Court in the case of Pune Municipal Corporation and Another vs. Harakchand Misirimal Solanki and Others reported in (2014) 3 SCC 183, the High Court has declared that the acquisition with respect to the land in question is deemed to have lapsed under Section 24(2) of the 2013 Act.

5. The decision of this Court in the case of *Pune Municipal Corporation (supra)*, which has been relied upon by the High Court, while passing the impugned judgment and order, has been overruled by the Constitution Bench of this Court in the case of *Indore Development Authority vs. Manoharlal & Ors. Etc.* reported in 2020 (8) SCC 129. In Paragraphs 365 and 366, this Court has observed and held as under:

"365. Resultantly, the decision rendered in Pune Municipal Corporation & Anr. is hereby overruled and all other decisions in which Pune Municipal Corporation has been followed, are also overruled. The decision in Shree Balaji Nagar Residential Association 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, 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:

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 land holdings 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."

6. Applying the law laid down by this Court in the case of Indore Development Authority (supra) to the facts of the case on hand and the possession of the land in question was already taken over, as far as back, on 16.07.1987, there shall not be any deemed lapse of acquisition under Section 24(2) of the 2013 Act as observed and held by the High Court.

7. Under the circumstances, the impugned judgment and order passed by the High Court is unsustainable. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the High Court is hereby quashed and set aside. There shall not be any deemed lapse of acquisition with respect to the land in question as held by the High Court.

The present appeal is, accordingly, allowed. No costs.

.....J
(M.R. SHAH)

.....J
(C.T. RAVIKUMAR)

New Delhi;
March 20, 2023

25.1

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1802 OF 2023
(Arising out of SLP (C) No. 5443/2023)
(@ D. No. 14403/2018)

DELHI DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

NIPUN MITTAL AND ORS.

Respondent(s)

O R D E R

1. Though served, none has appeared on behalf of respondent Nos. 2 & 3. As per the office report, notice has not been delivered upon respondent No.1 as 'no such person' is found. However, for the reasons stated herein below, we propose to remand the matter to the High Court as respondent Nos. 2 & 3 are already served and dispose of the present Appeal.

2. Delay condoned.

3. Leave granted.

4. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 08.02.2016 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No. 2497 of 2015, by which the High Court has allowed the said 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act"), the Delhi Development Authority has preferred the present appeal.

5. 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 2013 Act on the ground that neither the possession of the land in question has taken over nor the compensation has been paid.

6. The High Court has observed that while computing the period for making the Award with the commencement of the 2013 Act, Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceedings might have remained stayed on account of the stay order or any injunction granted by any Court.

7. However, it is the case on behalf of the appellant, so stated before this Court, that the possession could not be taken over due to the stay. It is submitted that as per the law laid down by the Constitution Bench of this Court in the case of Indore Development Authority vs. Manoharlal & Ors. Etc. reported in 2020 (8) SCC 129, if the possession could not be taken over due to stay in that case the said period is to be excluded and there shall not be any deemed lapse of acquisition.

8. Therefore, the view taken by the High Court that the Section 24(2) of the Act 2013 does not exclude any period during which the land acquisition proceedings might have remained stayed on account of the stay order or any injunction granted by any court can be said to be just contrary to the decision of this Court in the case of *Indore Development Authority (supra)*. Therefore, now the matter is to be remitted back to the High Court for fresh decision of the writ petition taking into consideration the law laid down by this

Court in *Indore Development Authority (supra)*.

9. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court is hereby quashed and set aside. The matter is remitted back to the High Court for fresh decision of the writ petition in accordance with law and on its own merits in the light of the law laid down by this Court in the case of *Indore Development Authority (supra)*.

10. It will be open for the appellant to file an additional counter before the High Court pointing out that the possession could not be taken over due to the stay/injunction granted by the Court, which may be considered by the High Court, after affording an opportunity to the original writ petitioners.

The present appeal is, accordingly, allowed to the aforesaid extent. No costs.

.....J
(M.R. SHAH)

.....J
(C.T. RAVIKUMAR)

New Delhi;
March 20, 2023

ITEM NO.25

COURT NO.4
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION XIV-A

SLP (Civil) No(s). 11190/2018

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

SOHAN LAL & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.63371/2018-EXEMPTION FROM FILING
 C/C OF THE IMPUGNED JUDGMENT)

WITH

D. No. 14403/2018 (XIV-A)

Date : 20-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
 HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. Ashwani Kumar, AOR
 Mr. Anshay Dhatwalia, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
 O R D E R

SLP (Civil) No(s). 11190/2018:

Though served, none has appeared on behalf of the contesting respondents.

Leave granted.

The present appeal is allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

D. No. 14403/2018:

Delay condoned.

Leave granted.

The present appeal is allowed to the extent as indicated in the signed order. Pending applications, if any, stand disposed of.

(R. NATARAJAN)
 ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
 ASSISTANT REGISTRAR

(Signed order is placed on the file)