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2026:CGHC:23895
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HIGH COURT OF CHHATTISGARH AT BILASPUR

Order reserved on 17.3.2026

Order pronounced on 15/06/2026

Order uploaded on 15/06/2026

WPC No. 531 of 2014

1. Anant Rice Industries Through The Partner Shri Shravan Agrwal S/o Shri Loknath Age 55 Yrs, R/o Aarang Tahsil Arang, Distt. Raipur C.G. , Chhattisgarh

... Petitioner

versus

1. State of Chhattisgarh through the Collector Raipur Distt. Raipur C.G.
2. The Land Acquisition Officer Tahsil & District : Raipur (CG)
3. Officer In Charge Mahanadi Jalashay Pariyojna Dwitiya Charan Work Division, Raipur District : Raipur, Chhattisgarh

... Respondents

For Petitioner : Mr. Adhiraj Surana, Advocate

For Respondents : Ms. Shailja Shukla, Government Advocate

SB: Hon'ble Mr. Justice Parth Prateem Sahu

CAV Order

1. Petitioner is a partnership firm and engaged in the business of rice milling. Land bearing Khasra Nos.1607/1B and 1607/2 total area 0.141 hectare situated at PH No.60/42 village Aarang is stated to be recorded in the name of petitioner. The State Government had published a notification for acquisition

of total 39.312 hectare (97.02 acre) land of different 222 khasra numbers of village Aarang, Tahsil Aarang District Raipur under Rajeev Gandhi Augmentation Scheme for public purpose i.e. construction of main canal. In the notification published by the State Government, land bearing Khasra No.1607/1B and 1607/2 belonging to petitioner was also forming part along with lands of other khasra numbers of concerned village. Notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act of 1894') was published on 23.1.2004 in two local newspapers dated 12.2.2004 and 10.02.2004. Notification under Section 6 of the Act of 1894 was published on 23.3.2004. After completion of acquisition proceedings pursuant to aforementioned notifications, the Land Acquisition Officer-Sub-Divisional Officer (R) Raipur had passed an award on 23.10.2004. Petitioner was awarded compensation of Rs.16,969/- for acquisition of land measuring 0.141 hectare of Khasra No.1607/1B and 1607/2. Petitioner submitted an application dated 23.12.2004 under Section 18 of the Act of 1894 before the Collector, District Raipur with a prayer for referring the case to the court of competent jurisdiction for enhancement of amount of compensation. Application submitted by the petitioner was referred to the Court of learned 4th Additional District Judge, Raipur and it was registered as

Land Acquisition Case No.66/2011. Reference case of petitioner was decided vide order dated 27.7.2013 (Annexure P-6) and the Court has proposed for enhancement of compensation from Rs.16,969/- to Rs.30,35,400/- along with interest @ 6% p.a. from the date of award of Land Acquisition Officer.

2. Petitioner preferred an appeal under Section 54 of the Act of 1954 before the High Court which was dismissed in default. Petitioner thereafter preferred this writ petition on 10.3.2014 for quashment of entire acquisition proceeding with respect to land owned by petitioner, as mentioned above, and sought for following relief:-

“10.1. That, this Hon’ble Court may kindly be pleased to call for the entire records relating to acquisition proceedings in Land Acquisition Case No.6A-82, year 2003-04 of Village-Aarang, P.H. No.60/42.

10.2. That, this Hon’ble Court may kindly be pleased to direct the quashment of the entire proceedings in relation to the acquisition of the land bearing Kh. No.1607/1B & 1607/2, admeasuring 0.141 Hect. Belonging to the petitioner which is already in the actual physical possession of the petitioner as per the provisions of Section 24 of the New Act, 2013.”

3. Learned counsel for petitioner would submit that respondents have not paid the amount of compensation nor deposited it in

the Court and have also not taken possession of the petitioner's land, subject matter of acquisition proceeding, and therefore, the proceeding of acquisition with respect to land owned by petitioner had lapsed. He submits that the award by the Land Acquisition Officer -cum- Sub- Divisional Officer (R) Raipur was passed on 23.10.2004 and petitioner submitted application under Section 18 of the Act of 1894 for referring the matter to the Court of competent jurisdiction. However, the Collector has not referred the matter and five years have lapsed, therefore, according to provision under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013'), the proceedings have lapsed. He submits that within five years neither the amount is paid to petitioner nor deposited with the Court, as envisaged under Section 31 of the Act of 1894. He contended that in the reference application, petitioner has claimed compensation of Rs.56,40,000/- against which the Court of competent jurisdiction has enhanced the compensation only to Rs.30,35,400/- and aggrieved with the order of learned Additional District Judge dated 27.7.2013, petitioner has preferred an appeal under Section 54 of the Act of 1894 before the High Court which was registered as FAM No.92/2013 and that appeal came to be dismissed in default.

Referring to provision under Section 24 of the Act of 2013, it is submitted that respondent No.3 is under obligation to pay amount of compensation or to deposit the same in the Court within a period of five years and should have also taken possession of land acquired, but in case of petitioner, neither amount of compensation is paid or deposited nor possession of the land has been taken over and therefore, the acquisition proceeding is lapsed.

4. Learned State Counsel would submit that acquisition proceeding started in the year 2004 and after completion of acquisition proceeding following due process of law, award was passed on 23.10.2004 awarding a compensation of Rs.16,969/- to the petitioner against acquisition of portion of land owned by petitioner, which was subject matter of land acquisition proceeding in question. After passing of the award on 23.10.2004, possession of the entire land, subject matter of land acquisition proceeding in question, was taken over by the Water Resources Department regarding which a panchnama was also prepared on 10.1.2005 in presence of independent witnesses. In support of his submission, he referred to document annexed along with return as Annexure R-1. He further contended that after passing of the award by the Land Acquisition Officer-cum-Sub Divisional Officer (R) Raipur, notice under Section 12 (2) of the Act of 1894 was

issued to the petitioner and all other persons whose lands were subject matter of acquisition proceeding. Amount of compensation was also tendered to petitioner but he refused to accept it questioning quantum of compensation. He also submits that refusal made by petitioner to accept the amount of compensation computed is endorsed by him and copy of which is also placed on record as Annexure R-2. Second notice was issued asking the petitioner to appear in the office of the Tahsildar on 23.12.2004 for receiving the amount of compensation, however, petitioner again refused to accept the compensation and in support of this contention, he referred to document Annexure R-3. He further contended that as the amount of compensation is to be paid to the petitioner which he refused to accept and further decision has been taken, therefore, no relief as prayed by petitioner can be granted because in such facts of the case, acquisition proceeding would not lapse.

5. Heard learned counsel for the respective parties and perused the documents annexed along with writ petition.
6. Pleadings made in writ petition as also undisputed facts of the case are that the State Government had initiated land proceeding to acquire total 39.312 hectare land of 222 different khasra numbers situated in Patwari Halka No.60/42, village Aarang. It is also not in dispute that part of land

bearing Khasra No.1607/1B and 1607/2 total area 0.141 hectare, which belonged to petitioner, was also part and parcel of land acquisition proceeding, as mentioned above. After following due process of law, the Land Acquisition Officer had passed the award on 23.10.2004 which was challenged by petitioner on the ground of quantum of compensation by filing an application under Section 18 of the Act of 1894. As in case at hand, dispute which is raised by petitioner relates to after passing of award under Section 11 of the Act of 1894, therefore, I find it appropriate to deal with relevant provisions of the Act of 1894 applicable to the facts of present case.

7. Section 11 of the Act of 1894 talks of inquiry and award by the Collector. Section 11 A provides for period within which the award shall be made. Period prescribes for passing an award is two years from the date of publication of declaration. In case at hand, admittedly the award was passed within period as prescribed under Section 11A of the Act of 894.
8. Section 12 of the Act of 1894 talks of award of the Collector when to be final. It provides that after passing of an award, it shall be filed in the office of the Collector and thereafter the Collector shall give immediate notice of this award to such of the persons interested as are not present personally or by their representatives when the award is made.

9. Application under Section 18 of the Act of 1894 was filed by petitioner on 23.11.2004 and thereafter when no action was taken on said application, as stated by learned counsel for petitioner, another application under Section 18 of the Act of 1894 was filed on 28.8.2009. Copy of notice under Section 12 (2) of the Act of 1894 is filed by learned counsel for respondent State as Annexure R-2 along with reply, which is dated 24.11.2004. From the aforementioned documents i.e. copy of notice under Section 12 (2) and application under Section 18 of the Act of 1894 filed by petitioner on 23.11.2004, it is clear that notice under Section 12 (2) was received by the petitioner within time.
10. Section 31 of the Act of 1894 provides for payment of compensation or deposit of same in the Court. It provides that after making an award under Section 11, the Collector shall tender payment of compensation to the person interested entitled thereto. It further provides that if a person interested shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under Section 18 would be submitted. Another relevant provision in the facts of the case would be Section 16 of the Act of 1894

which provides for power to take possession of the land subject matter of acquisition.

11. Perusal of record and documents enclosed along with petition would show that the Land Acquisition Officer has issued the memo dated 15.12.2004 mentioning that lands situated in Patwari Halka No.60/42 of village Arang was acquired for Rajeev Gandhi Augmentation and payment of compensation is scheduled on 23.12.2004 in Tahsil Office, Arang at 11:00 a.m. Along with notice, list of persons affected in acquisition proceeding is also annexed which bears signature of interested persons. Name of petitioner in this list is mentioned at Sr. No.2 and the petitioner against his name has put an endorsement that as compensation is not computed following due process of law as provided, therefore, the same is not acceptable and they are going to prefer a reference before the Collector. Copy of notice under Section 12 (2) of the Act of 1894 addressed to the petitioner is placed on record as Annexure R-2. Receipt of notice is filed by respondent State at Page No.13 of reply and perusal of same would reveal that notice was served upon Clerk (Muneem) of rice mill and there is an objection in the shape of endorsement that proper measurement of land and proper computation of compensation was not done and request for registering appeal.

12. From the aforementioned two documents it is apparent that computation of amount of compensation to the petitioner was informed by competent authority vide notice under Section 12 (2) of the Act of 1894 and further, a notice for appearing in the office of the Tahsildar at a particular date and time was also issued vide Annexure R-3 dated 15.12.2004 for accepting compensation. However, petitioner refused to accept the compensation by making an endorsement that petitioner is going to file proceeding under Section 18 of the Act of 1894.
13. Section 31 of the Act of 1894 provides that after passing of the award under Section 11, the Collector shall tender the payment of compensation awarded by him to the person interested.
14. In this petition, the claim of petitioner is that proceeding of land acquisition initiated in the year 2004 under the Act of 1894 lapsed, in terms of provisions under Section 24 (2) of the Act of 2013. In the facts of the case, Section 24 (2) of the Act of 2013 is also relevant, hence, it is extracted below:-

“24.Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.-

(1) xxxxxxxx

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),

where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

15. In case of **Indore Development Authority vs Manoharlal and others**, reported in **(2020) 8 SCC 129** Hon'ble Supreme Court has considered the issue with regard to lapse of proceeding under Section 24 (2) of the Act of 2013 when there is non-compliance of the provision under Section 31 of the Act of 1894 and observed thus:-

“118. Section 31 (1) enacts that the Collector has to tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay such amount to a person interested in the land, unless he (the Collector) is prevented from doing so, for any of the three

contingencies provided by sub-section (2). Section 31 (2) provides for deposit of compensation in Court in case State is prevented from making payment in the event of

- (i) refusal to receive it;
- (ii) if there be no person competent to alienate the land;
- (iii) if there is any dispute as to the title to receive the compensation; or (iv) if there is dispute as to the apportionment.

In such exigencies, the Collector shall deposit the amount of the compensation in the court to which a reference under Section 18 would be submitted.”

16. The provision under Section 31 of the Act of 1894 talks that Collector shall tender payment of compensation. In case at hand, when once the notice is issued to the interested person including the petitioner for appearing in the office of Tahsildar and to accept the compensation then in the facts of the case there is compliance of the provisions of Section 31 (1) of the Act of 1894. In the facts of the case, petitioner will not be permitted to contend that amount has not been paid to him and as such there should be lapse of proceeding.
17. In case of Manoharlal (supra), it was observed thus:-

“208. It was submitted that mere tender of amount is not payment. The amount has to be actually paid. In our opinion, when amount has been tendered, the obligation has been fulfilled by the Collector. Landowners cannot be forced to receive it. In case

a person has not accepted the amount wants to take the advantage of non-payment, though the amount has remained due to his own act. It is not open to him to contend that amount has not been paid to him, as such, there should be lapse of the proceedings. Even in a case when offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holding, for that adequate provisions have been given in the proviso also to Section 24(2). The scheme of the Act of 2013 in Sections 77 and 80 is also the same as that provided in Sections 31 and 34 of the Act of 1894.”

18. In case at hand, land of total 222 khasra numbers of village Aarang was subject matter of acquisition proceeding, including petitioner’s two khasra numbers. It is not the case that amount is not paid for majority of holdings. From the documents available it is apparent that notices to land holders were issued of award mentioning compensation individually and further notice fixing date, place and time for payment of compensation was also issued.
19. Second ground raised by learned counsel for petitioner that possession of land was not taken by respondent State and therefore also acquisition proceeding has to be lapsed under Section 24 (2) of the Act of 2013.
20. In reply, respondent State has pleaded in specific terms that after passing of the award, possession of the entire land admeasuring 39.312 hectare along with standing trees, was

taken by the Sub-Divisional Officer from the concerned Patwari and in support thereof filed possession certificate, Annexure R-1. Possession certificate is dated 10.1.2005. The Sub-Divisional Officer has further written a letter intimating the Executive Engineer that the possession of the entire land, which is subject matter of acquisition proceeding, has been taken. This letter was enclosed along with panchnama, which runs in 12 pages, as is reflecting from Page No.9 of the reply. Copy of panchnama is also placed on record at Page No.10 of reply which is dated 10.1.2005 and also bears signature of Patwari, Sub-Divisional Officer of the department and other persons present at the time of handing over of possession.

21. Though, in writ petition, petitioner has made an attempt to submit that the possession of land has not been taken and petitioner is still in possession of it, but from the documents placed on record by petitioner itself, it is clear that it is not correct. In the application filed under Section 18 of the Act of 1894 (Annexure P-5), petitioner has mentioned in Para-6 of the application that petitioner is entitled for compensation of Rs.1,22,000/- on account of demolition of wall constructed over the land subject matter of acquisition proceeding. This pleading of petitioner also reflects that at the time of taking possession, the boundary wall is demolished. In the aforementioned facts of the case, submission made by

learned counsel for the petitioner and the pleadings made in writ petition with respect to possession, is not correct and contrary to the pleadings made in the application under Section 18 of the Act of 894. Further, respondent State has filed the documents showing that possession has already been taken over through the Patwari by preparing panchnama in this regard. If for any reason, petitioner says that petitioner is still in possession then it will be an unauthorized possession, trespasser over the land of government and therefore, petitioner cannot get any benefit by saying that he is in possession and filing photographs in proof thereof. In case of **Manoharlal (supra)**, Hon'ble Supreme Court has observed thus:-

“126. It was also submitted on behalf of the States that neither a transitory provision nor a repealing law could be interpreted so as to take away, disturb or adversely affect rights created by operation of law. It cannot divest the State Government of the land absolutely vested in it. Reliance has been placed on *K.S. Paripoornan v. State of Kerala & Ors* thus:

“12. It is further necessary to bear in mind that the amending Act has added, among others, the provisions of Section 23(1-A) and Section 28-A and has amended the provisions of Section 23(2). It has also made independent transitional provision in its Section 30. The relevant provisions of Section 30 read as follows:

“30. Transitional provisions.— (1) The provisions of sub-section (1- A) of Section 23 of the principal Act, as inserted by clause (a) of Section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—

(a) every proceeding for the acquisition of any land under the principal Act pending on 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982 in the House of the People], in which no award has been made by the Collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the date of commencement of this Act.

(2) The provisions of sub-section (2) of Section 23 and Section 28 of the principal Act, as amended by clause (b) of Section 15 and Section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of

the People] and before the commencement of this Act. The date of the introduction of the Bill of the amending Act is 30-4-1982 and the date of its commencement is 24-9-1984.

* * *

38. The transitional provision is by its very nature an enabling one and has to be interpreted as such. In the present case, it is made to take care of the period between 30-4-1982 and 24-9-1984, i.e., between the date of the introduction of the Bill of the amending Act and the date of the commencement of the Act. Since some awards might have been made by the Collector and the reference Court during the said interregnum, the legislature did not want to deprive the awardees concerned either of the newly conferred benefit of Section 23(1-A) or of the increased benefit under Sections 23(2) and 28. The second object was to enable the Collector and the Court to give the said benefits in the proceedings pending before them where they had not made awards. The only limitation that was placed on the power of the Collector in this behalf was that he should not reopen the awards already made by him in proceedings which were pending before him on 30-4-1982 to give the benefit of Section 23(1-A) to such awardees. This was as stated earlier, for

two reasons. If the said awards are pending before the reference Court on the date of the commencement of the amending Act, viz., 24-9-1984, the reference Court would be able to give the said benefit to the awardees. On the other hand, if the awardees in question had accepted the awards, the same having become final, should not be reopened. As regards the increased benefit under Sections 23 (2) and 28, the intention of the legislature was to extend it not only to the proceedings pending before the reference Court on 24- 9-1984 but also to those where awards were made by the Collector and the reference Courts between 30-4-1982 and 24-9- 1984. Hence these awards could not only be reopened but if they were the subject-matter of the appeal before High Courts or the Supreme Court, the appellate orders could also be reopened to extend the said benefits.

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71. Section 30 of the amending Act bears the heading "Transitional provisions." Explaining the role of transitional provisions in a statute, Bennion has stated:

“Where an Act contains substantive, amending or repealing enactments, it commonly also includes transitional provisions which regulate the coming into operation of those enactments and modify their effect during the

period of transition. Where an Act fails to include such provisions expressly, the court is required to draw inferences as to the intended transitional arrangements as, in the light of the interpretative criteria, it considers Parliament to have intended.” (Francis Bennion: Statutory Interpretation, 2nd Edn., p. 213)

The learned author has further pointed out:

“Transitional provisions in an Act or other instrument are provisions which spell out precisely when and how the operative parts of the instrument are to take effect. It is important for the interpreter to realise, and bear constantly in mind, that what appears to be the plain meaning of a substantive enactment is often modified by transitional provisions located elsewhere in the Act.” (p. 213)

Similarly Thornton in his treatise on Legislative Drafting, has stated:

“The function of a transitional provision is to make special provision for the application of legislation to the circumstances which exist at the time when that legislation comes into force.”

For the purpose of ascertaining whether and, if so, to what extent the provisions of sub-section (1-A) introduced in Section 23 by the amending Act are applicable to proceedings that were pending on the

date of the commencement of the amending Act it is necessary to read Section 23(1-A) along with the transitional provisions contained in sub-section (1) of Section 30 of the amending Act.”

(emphasis supplied)

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.

260. The word 'vest' has to be construed in the context in which it is used in a particular provision of the Act. Vesting is absolute and free from all encumbrances that includes possession. Once there is vesting of land, once possession has been taken, section 24(2) does not contemplate divesting of the property from the State as mentioned above."

22. In case of Manoharlal (supra), Hon'ble Supreme Court has further observed that for invoking the provision under Section 24 (2) of the Act of 1894, there shall be twin requirements i.e. physical possession has not been taken and second, compensation has not been taken. It was observed thus:-

"97. Section 24(2) carves out an exception to Section 24(1)(b), where the award has been passed, and the proceedings are pending, but in such proceedings, physical possession of the land has not been taken, or compensation has not been paid, proceedings shall lapse. There are twin requirements for the lapse; firstly, physical possession has not been taken and, secondly, compensation has not been paid. In case, possession has been taken but compensation has been paid, there is no lapse of the proceedings. The question which is to be decided is whether the conditions are cumulative, i.e both are to be fulfilled, for lapsing of acquisition proceedings, or the conditions are in the

alternative ("either/or"). According to the State and acquiring agencies, in a situation where possession has been taken, and compensation is not paid, there is no lapse: also in case where compensation has been paid, but possession not taken in a proceeding pending as on 1.1.2014, there is no lapse. Sine qua non is that proceeding must be pending. They argue that the word "or" used in phrase 'the physical possession of the land has been not taken, or the compensation has not been paid', has to be interpreted as "and" as two negative requirements qualify it. Furthermore, argues the State when two negative conditions are connected by "or," they are construed as cumulative, the word "or" is to be read as "nor" or "and." Naturally, the landowners argue to the contrary, i.e., that lapse of acquisition occurred if compensation were not paid, or possession were not taken, 5 years before the coming into force of the Act of 2013.

98. It would be useful to notice rules of Statutory Interpretation in this regard. Principles of Statutory Interpretation (14th Edition) by Justice G.P. Singh, speaks of the following general rule of Statutory Interpretation of positive and negative conditions whenever prescribed by a statute:

“...Speaking generally, a distinction may be made between positive and negative conditions prescribed by a statute for acquiring a right or benefit. Positive conditions separated by 'or' are read in the alternative but negative conditions

connected by 'or' are construed as cumulative and 'or' is read as 'nor' or 'and'

The above rule of Statutory Interpretation is based upon the decision of this Court in *Patel Chunibhai Dajibha, etc. vs. Narayanrao Khanderao Jambekar and Anr.*⁷³, in which this court held:

“(19) It may be recalled that amendments to S. 32 were made from time to time, and the Bombay Act XXXVIII of 1957 added to sub-s. (1)(b), cl. (iii) and the preceding "or". It is to be noticed that the conditions mentioned in sub-ss. (1)(a) and (1)(b) are mutually exclusive. In spite of the absence of the word “or” between sub-ss. (1)(a) and (1)(b), the two sub-sections lay down alternative conditions. The tenant must be deemed to have purchased the land if he satisfies either of the two conditions. The appellant is not a permanent tenant, and does not satisfy the condition mentioned in sub-s.(1)(a). Though not a permanent tenant, he cultivated the lands leased personally, and, therefore, satisfies the first part of the condition specified in sub-s. (1)(b). The appellant’s contention is that sub-ss. (1)(b)(i), (1)(b)(ii) and (1)(b)(iii) lay down alternative conditions, and as he satisfies the condition mentioned in sub-s. (1)(b)(iii), he must be deemed to have purchased the land on April 1, 1957. Colour is lent to this argument by the word “or” appearing between sub-s.(1)(b)(ii) and sub-s.(1)(b)(iii). But, we think that the word “or” between sub-ss. (1)(b)(ii) and (1)(b)(iii) in conjunction with the succeeding negatives is equivalent to and should be read as "nor." In other words, a tenant (other than a permanent tenant) cultivating the lands personally would become the purchaser of the lands on April 1, 1957, if on that date neither an application under Section 29 read with Section 31 nor an

application under Section 29 read with Section 14 was pending. If an application either under Section read with Section 31 or under Section 29 read with Section 14 was pending 1.4.1957, the tenant would become the purchaser on "the postponed date", that is to say, when the application would be finally rejected. But if the application be finally allowed, the tenant would not become the purchaser. The expression "an application" in the proviso means not only an application under Section 31 but also an application under Section 29 read with Section 14. If an application of either type was pending on April 1, 1957, the tenant could not become the purchaser on that date. Now, on April 1, 1957, the application filed by respondent No.1 under Section 29 read with Section 31 was pending. Consequently, the appellant could not be deemed to have purchased the lands on April 1, 1957."

(emphasis supplied)

The decision of this Court in *The Punjab Produce and Trading Co. Ltd. vs. The C.I.T.*⁸¹ was relied upon in the discussion mentioned above, where provisions of Section 23A of the Income Tax Act, 1922 and the Explanation (b)(ii) and (iii) came up for consideration. This Court ruled with respect to "or" and held that it had to be read as "and" construing negative conditions thus: (SCC pp. 543-44, paras 7-8)

"7. On behalf of the assessee a good deal of reliance has been placed on decision of this Court in *Star Company Ltd. v. CIT*⁷⁸. In that case, sub-clause (b)(ii) came up for consideration, and it was held that the two parts of the Explanation contained in that sub-clause were alternative. In other words, if one part was satisfied it was unnecessary to

consider whether the second part was also satisfied. Thus the word "or" was treated as having been used disjunctively and not conjunctively. The same reasoning is sought to be invoked with reference to sub-clause (b)(iii).

8. It is significant that the language of sub-clauses (ii) and (iii) of clause (b) is different. The former relates to a positive state of affairs whereas the latter lays down negative conditions. The word "or" is often used to express an alternative of terms defined or explanation of the same thing in different words. Therefore, if either of the two negative conditions which are to be found in sub-clause (b)(iii) remains unfulfilled, the conditions laid down in the entire clause cannot be said to have been satisfied. The clear import of the opening part of clause (b) with the word "and" appearing there read with the negative or disqualifying conditions in sub-clause (b)(iii) is that the assessee was bound to satisfy apart from the conditions contained in the other sub-clauses that its affairs were at no time during the previous year controlled by less than six persons and shares carrying more than 50 per cent of the total voting power were during the same period not held by less than six persons. We are unable to find any infirmity in the reasoning or the conclusion of the Tribunal and the High Court so far as question 1 is concerned." It was observed that if either of the two negative conditions, which are to be found in Sub-clause (b)(iii), remains unfulfilled, the conditions laid down in the entire clause cannot be said to have been satisfied."

23. Hon'ble Supreme Court in above case after long deliberation has observed that twin requirement, as mentioned under

Section 24 (2) of the Act of 2013, are cumulative and conjunctively in nature. For lapsing of the proceeding of the land acquisition under the Act of 1894, possession should not have been taken and compensation should not have been paid within the specified period of five years. In case at hand, compensation to majority of land owners appears to have been paid. Compensation computed was tendered to petitioner, which he refused to accept. Possession is also taken in the year 2005.

24. Hon'ble Supreme Court after dealing with issue of payment of compensation and taking over possession in the land acquisition proceeding under the Act of 1894, effect of non-payment or non-taking of possession with reference to Section 24 (2) has observed thus:-

365. Resultantly, the decision rendered in Pune Municipal Corporation & Anr. (supra) is hereby overruled and all other decisions in which Pune Municipal Corporation (supra) has been followed, are also overruled. The decision in Shree Balaji Nagar Residential Association (supra) 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 (Dead) through L.Rs. and Ors., (supra), 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 Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

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 Act of 2013 under the Act of 1894 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 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.

366.4. 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.

366.5. 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.

366.6. 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).

366.7. 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).

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 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.

366.9. 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.”

25. In case at hand, as the petitioner immediately after passing of the award and receipt of notice under Section 12 (2) of the Act of 1894, refused to accept the amount of compensation awarded and submitted an application under Section 18 of the Act of 1894 before the Court of competent jurisdiction, which was allowed in part enhancing the amount of compensation. Petitioner thereafter submitted an appeal as provided under Section 54 of the Act of 1894, which came to be dismissed. Documents are filed in reply of taking possession of lands, subject matter of acquisition. Therefore, in the facts of the case and in view of discussion made above, in the considered opinion of this Court, no relief can be granted to the petitioner. Writ petition being *sans merit* is liable to be and is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-