

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

**CIVIL APPEAL NO(s) 6680/2022
(Arising out of SLP(Civil) No. 13695/2017)**

DELHI DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

RAJENDER KUMAR AND ORS.

Respondent(s)

ORDER

Leave granted.

The present appeal arises out of land acquisition proceeding in which the land owners' plea for application of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("2013 Act") has been sustained by the High Court. These acquisition proceedings had commenced by a notification issued under Section 4 of the Land Acquisition Act, 1894 ("1894 Act") on 21st March 2003 and award was made on 12th July 2005.

The admitted position is that physical possession of the subject land had been taken but compensation had not been paid to the land owners. The High Court relied on the judgment of this Court in the case of **Pune Municipal Corporation & Another vs. Harakchand Misirimal Solanki & Others** [(2014) 3 SCC 183] and on that basis observed that the acquisition proceeding had lapsed and Section 24(2) of the 2013 Act be applicable.

Learned counsel for the appellant, however, points out that stay was granted in 2005 and the land owners had filed a writ petition registered as Writ Petition no. 2979/2005 challenging the legality of the notifications under Section 4 and 6 of the 1894 Act. But this writ petition was dismissed. Against the judgment by which the writ petition was dismissed, a Special Leave Petition was preferred in the year 2007 which was registered as SLP(C) No. 12584/2007 before this Court and notice had been issued in the SLP and parties were also directed to maintain *status quo*.

The Special Leave Petition was finally decided by this Court on 11th February 2015 sustaining judgment of the High Court. It was held and observed by this Court:-

“We do not see any good ground to interfere with the judgment and order passed by the High Court. Accordingly, the special leave petitions are dismissed. However, we grant liberty to the petitioners, if they may so desire, to make appropriate application(s) as provided under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, or under Section 48 of the Land Acquisition Act, 1894, before the appropriate forum/High Court within one month from today as applicable in the facts of respective cases before us, if not already filed.

The application(s)/representation(s) which have already been filed before the Government of N.C.T. of Delhi and have been decided by the authority, the decision shall be communicated to the applicant(s)/petitioner(s) within one month's time from today, if any already communicated to them.

The application(s)/representation(s) which are pending with the Government of N.C.T. of Delhi and have not yet been decided, the authority after taking an appropriate decision, within two months' time from today, shall communicate the same to the applicant(s)/petitioner(s) within one month from the date of taking such decision.

The application(s)/representation(s) by the petitioners which are now to be filed shall be filed within one month's

time from today and those application(s) shall also be decided in accordance with law within two months' time from the date of filing of those application(s) and the authority after taking such decision shall communicate the same to the applicant(s) within one month's time from the date of taking the decision."

Such application was made by the land owners and on that basis, the judgment under appeal was decided. Since there was an order of status quo between the 2007 and 2015, the acquiring authority obviously could not obtain the possession of the land. Such a situation has been insulated from the application of the provisions of Section 24(2) of the 2013 Act in the Constitution Bench judgment of this Court in the case of **Indore Development Authority vs. Manohar Lal and others** [(2020) 8 SCC 129].

It has been held by the Constitution Bench of this Court:

"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 Page: 394 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”.*

This being the position of law, we do not think the provisions of Section 24(2) of the 2013 Act would be applicable in the facts of this case. Learned counsel appearing for the respondents-land owners did not bring to our notice any distinguishing feature which could be brought in favour of the land owners for attracting the provisions of Section 24(2) of the 2013 Act. Under these circumstances, the present appeal is allowed.

The land owners, however, shall be at liberty to apply before the appropriate Authority for compensation amount, if due.

Pending application(s), if any, shall stand disposed of.

The judgment under appeal is set aside. There shall be no order as to costs.

.....**J.**
[ANIRUDDHA BOSE]

.....**J.**
[VIKRAM NATH]

New Delhi.
September 15, 2022.

ITEM NO.13

COURT NO.15

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13695/2017

(Arising out of impugned final judgment and order dated 01-12-2015 in WPC No. 2516/2015 passed by the High Court Of Delhi At New Delhi)

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

RAJENDER KUMAR AND ORS.

Respondent(s)

Date : 15-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Ashwani Kumar, AOR

For Respondent(s) Mr. Gagan Gupta, AOR

Ms. Astha Tyagi, AOR

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

Leave granted.

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

The land owners, however, shall be at liberty to apply before the appropriate Authority for compensation amount, if due.

Pending application(s), if any, shall stand disposed of.

(JATINDER KAUR)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR

[Signed order is placed on the file]