

ITEM NO.18

COURT NO.4

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 21978/2022

(Arising out of impugned final judgment and order dated 22-02-2018 in WP(C) No. 9062/2016 passed by the High Court Of Delhi At New Delhi)

GOVT. OF NCT OF DELHI & ORS.

Petitioner(s)

VERSUS

DUNGER SINGH TOKAS & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.204857/2022-CONDONATION OF DELAY IN FILING and IA No.204858/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.204855/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 13-01-2023 This petition was called on for hearing today.

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

For Petitioner(s) Ms. Astha Tyagi, AOR
Mr. Dinesh Chander Trehan, Adv.
Ms. Diksha Narula, Adv.
Mr. D P Singh Yadav, Adv.

For Respondent(s)

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

It is the case on behalf of the petitioners that, in the present case, notification under Section 4 of the Land Acquisition Act, 1894 was issued in the year 1965. It is submitted that the possession of the land in question was taken over in the year 1980. It is submitted that thereafter after the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act") came into force, the original writ petitioner, for the first time, make a grievance, after a period of approximately 40 years, that he

has not been paid the compensation and therefore in view of Section 24 of the 2013 Act, the acquisition with respect to the land in question is deemed to have lapsed. It is submitted that before the High Court it was the specific case on behalf of the petitioner(s) that, after number of years, no record was available. Despite the above, the High Court has virtually drawn the adverse inference and has held that as the compensation is not paid, the acquisition with respect to the land in question is deemed to have lapsed.

It is submitted that the Hon'ble High Court has appreciated the fact that, after 40 years and when the grievance was made with respect to non-payment of compensation after 40 years and/or number of years merely because the Authority could not produce any record to show that the compensation was paid and/or deposited, no adverse inference could have been drawn against the department.

It is submitted that, in any case, when during these long years/40 years when no grievance was made with respect to non-payment of compensation, the plea on behalf of the original writ petitioner that the compensation has not been paid could not have been accepted by the Hon'ble High Court solely on the ground that the Department is not in a position to produce any document that the compensation was paid.

It is submitted that, in any case, in the present case, as the possession was already taken over in the year 1980, the acquisition proceedings could not have been ordered to have been deemed to have lapsed in view of the decision of this Court in the case of Indore Development Authority vs. Manoharlal & Ors. Etc. reported in 2020 (8) SCC 129.

Delay in re-filing is condoned.

Issue notice on the application for condonation of delay as well as on the Special Leave Petition, returnable on 27.02.2023.

Dasti, in addition, is permitted.

Respondents be served within a period of 10 days from today.

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

(NISHA TRIPATHI)
ASSISTANT REGISTRAR