

31.10

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1490 OF 2023
(Arising out of SLP (C) No. 4369/2023)
(D. No. 14594/2022)

GOVERNMENT OF NCT OF DELHI AND ANR.

Appellant(s)

VERSUS

RAJEEV AGNIHOTRI AND ORS.

Respondent(s)

O R D E R

1. Delay condoned.

2. Leave granted.

3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 15.04.2015 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No. 368 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 Government of NCT of Delhi and Another have preferred the present appeal.

4. From the impugned judgment and order passed by the High Court and considering para 4, it appears and it was the specific case on behalf of the appellants that the physical possession of the land in question could not be taken due to operation of the stay order passed in Writ Petition (C) No. 7802 of 2012 and the said stay

order continued to operate till 01.01.2014 when the 2013 Act came into effect. However thereafter, 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, the High Court has allowed the Writ Petition. The decision of this Court in the case of Pune Municipal Corporation (supra) has been subsequently 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."

5. In view of the above, the impugned judgment and order passed by the High Court is unsustainable and the matter is to be remanded to the High Court to consider the writ petition afresh and in the light of the observations made by this Court in the case of Indore Development Authority (supra) and/or any other decisions which may be cited.

6. In view of the above and for the reasons stated above, the present Appeal is allowed. The impugned judgment and order passed by the High Court is hereby quashed and set aside and the matter is remitted to the High Court to consider the Writ Petition afresh in accordance with law and on its own merits and in the light of the observations and the law laid down by the Constitution Bench of this Court in the case of Indore Development Authority (supra) and/or any other decisions which may be cited. The aforesaid

exercise shall be completed within a period of one year from the date of receipt of the present order.

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

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

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

New Delhi;
February 27, 2023

31.14

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1492 OF 2023
(Arising out of SLP (C) No. 4370/2023)
(D. No. 15575/2022)

GOVERNMENT OF NCT OF DELHI AND ANR.

Appellant(s)

VERSUS

RAJESH KUMAR AND ORS.

Respondent(s)

O R D E R

1. Delay condoned.
2. Leave granted.
3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 26.05.2015 passed by the High Court of Delhi at New Delhi in Writ Petition (C) No. 9005 of 2014, 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 Government of NCT of Delhi and Another have preferred the present appeal.
4. It is reported that with respect to the very award and the acquisition of the land in the very colony the matter has been remanded to the High Court in view of the decision of this Court in the case of Delhi Development Authority vs. Sudesh Goel & Ors. - (Civil Appeal No. 1838 of 2022). It is further reported by learned counsel appearing on behalf of the contesting respondents that even thereafter with respect to the very award and the acquisition of

the land in the very colony in C.A. No. 8990 of 2022 (Arising out of SLP (C) No. 22122/2022 [W.P. (C) No. 12043 of 2015 before the High Court] has been allowed by this Court and the matter is remitted to the High Court. Heavy reliance has been placed on the decision of this Court dated 02.12.2022 passed in Civil Appeal No. 8990 of 2022.

5. In that view of the matter, we deem it appropriate to set aside the impugned judgment and order and relegate the parties before the High Court for reconsideration of the entire matter afresh on its own merits and in accordance with law, including keeping in mind the law laid down by the Constitution Bench of this Court in Indore Development Authority vs. Manoharlal & Ors. Etc. reported in 2020 (8) SCC 129.

All contentions available to both the sides are left open.

6. We make it clear the we may not be understood to have expressed any opinion on either way on the factual matters raised by the concerned parties and it is for the High Court to examine the same on its own merits and in accordance with law.

Now the parties to appear before the High Court and the High Court to hear the remanded matter expeditiously.

The appeal is disposed of in the above terms.

Pending applications, if any, also stand disposed of.

.....J
(M.R. SHAH)
.....J
(C.T. RAVIKUMAR)

New Delhi;
February 27, 2023

ITEM NO.31

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 15710/2022

(Arising out of impugned final judgment and order dated 28-09-2015 in WP(C) No. 1985/2015 passed by the High Court Of Delhi At New Delhi)

LAND AND BUILDING DEPARTMENT & ANR.

Petitioner(s)

VERSUS

JYOTSNA SURI & ORS.

Respondent(s)

FOR ADMISSION and I.R. and IA No.1002/2023-CONDONATION OF DELAY IN FILING and IA No.1003/2023-EXEMPTION FROM FILING O.T. and IA No.1004/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

WITH

Diary No(s). 10132/2022 (XIV)

FOR ADMISSION and I.R. and IA No.1179/2023-CONDONATION OF DELAY IN FILING and IA No.1180/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.1181/2023-EXEMPTION FROM FILING O.T. and IA No.1182/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10221/2022 (XIV)

FOR ADMISSION and I.R. and IA No.1220/2023-CONDONATION OF DELAY IN FILING and IA No.1223/2023-EXEMPTION FROM FILING O.T. and IA No.1225/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10213/2022 (XIV)

FOR ADMISSION and I.R. and IA No.465/2023-CONDONATION OF DELAY IN FILING and IA No.469/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.470/2023-EXEMPTION FROM FILING O.T. and IA No.468/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 8556/2022 (XIV)

FOR ADMISSION and I.R. and IA No.1059/2023-CONDONATION OF DELAY IN FILING and IA No.1067/2023-EXEMPTION FROM FILING O.T. and IA No.1065/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 14591/2022 (XIV)

FOR ADMISSION and I.R. and IA No.661/2023-CONDONATION OF DELAY IN FILING and IA No.667/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.664/2023-EXEMPTION FROM FILING O.T. and IA No.662/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10218/2022 (XIV)
FOR ADMISSION and I.R. and IA No.4/2023-CONDONATION OF DELAY IN
FILING and IA No.5/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.6/2023-EXEMPTION FROM FILING O.T. and IA
No.7/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10476/2022 (XIV)
FOR ADMISSION and I.R. and IA No.742/2023-CONDONATION OF DELAY IN
FILING and IA No.744/2023-EXEMPTION FROM FILING O.T. and IA
No.745/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10473/2022 (XIV)
FOR ADMISSION and I.R. and IA No.1151/2023-CONDONATION OF DELAY IN
FILING and IA No.1152/2023-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.1154/2023-EXEMPTION FROM FILING O.T.
and IA No.1150/2023-CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS

Diary No(s). 15623/2022 (XIV)
FOR ADMISSION and I.R. and IA No.1011/2023-CONDONATION OF DELAY IN
FILING and IA No.1015/2023-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.1017/2023-EXEMPTION FROM FILING O.T.
and IA No.1014/2023-CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS

Diary No(s). 14594/2022 (XIV)
FOR ADMISSION and I.R. and IA No.520/2023-CONDONATION OF DELAY IN
FILING and IA No.522/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.523/2023-CONDONATION OF DELAY IN REFILING /
CURING THE DEFECTS

Diary No(s). 15940/2022 (XIV)
FOR ADMISSION and I.R. and IA No.328/2023-CONDONATION OF DELAY IN
FILING and IA No.329/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.339/2023-EXEMPTION FROM FILING O.T. and IA
No.327/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 14597/2022 (XIV)
FOR ADMISSION and I.R. and IA No.1035/2023-CONDONATION OF DELAY IN
FILING and IA No.1036/2023-EXEMPTION FROM FILING O.T. and IA
No.1038/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 10474/2022 (XIV)
FOR ADMISSION and I.R. and IA No.1026/2023-CONDONATION OF DELAY IN
FILING and IA No.1028/2023-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.1029/2023-EXEMPTION FROM FILING O.T.
and IA No.1027/2023-CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS

Diary No(s). 15575/2022 (XIV)
FOR ADMISSION and I.R. and IA No.1100/2023-CONDONATION OF DELAY IN
FILING and IA No.1104/2023-EXEMPTION FROM FILING O.T. and IA
No.1103/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Date : 27-02-2023 These matters were called on for hearing today.

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

For Petitioner(s) Mr. Atul Kumar, AOR
Mr. Avs Kadyan, Adv.
Mr. Rajiv Ranjan, Adv.
Mr. Amitabh Ranjan, Adv.
Mr. Rahul Pandey, Adv.
Mrs. Archana Kumari, Adv.
Mrs. Sweety Singh, Adv.
Mrs. Rachita Kadyan, Adv.

For Respondent(s) Mr. N.S. Vasisht, Adv.
Ms. Jyoti Kataria, Adv.
Mr. Varun Kapur, AOR

Ms. Smita Maan, AOR

Mr. Ashok Mathur, AOR

Mr. Sumit Bansal, Adv.
Mr. Manish Paliwal, AOR

Mr. Rajiv Kumar Ghawana, Adv.
Mr. Ranjit Singh Daler, Adv.

Mr. D.V. Khatri, Adv.
Mr. Mansoor Ali, AOR

Mr. T. V. S. Raghavendra Sreyas, AOR

Ms. Manika Tripathy, AOR
Mr. Ishaan Sharma, Adv.
Mr. Manish Vasisht, Adv.
Mr. Ashutosh Kaushik, Adv.

Mr. Nitin Mishra, AOR
Mr. Ishaan Sharma, Adv.

Mr. Mukesh Kumar Verma, Adv.
Mr. Vikas Gupta, AOR
Ms. Vuzmal Nehru, Adv.
Mr. Ankit Gupta, Adv.
Mr. Satya Parkash Gautam, Adv.

Mr. Rajesh Kumar Chaurasia, AOR
Mr. Jaideep Malik, Adv.
Mr. Nitesh Dhankar, Adv.
Mr. Sujeet Kumar, Adv.

Mr. Mahesh Chaurasia, Adv.
Mr. Sunil Kumar Tomar, Adv.
Ms. Soni, Adv.
Ms. Reena Patel, Adv.

Ms. Niharika Ahluwalia, AOR
Mr. Ishaan Sharma, Adv.
Mr. Varun Agarwal, Adv.

Mr. Vikramjeet Banerjee, A.S.G.
Ms. Sakshi Kakkar, Adv.
Mrs. Rukhmini Bobde, Adv.
Mr. Prashant Rawat, Adv.
Mr. Arvind Kumar Sharma, AOR

Ms. Malvika Kapila, AOR
Ms. Tanwangi Shukla, Adv.
Mr. Tanwangi Shukla, Adv.

Mr. Ravi Bharuka, AOR
Mr. Ankit Agarwal, Adv.

Ms. Shalini Chandra, AOR
Mr. Ishaan Sharma, Adv.

Mr. Praveen Swarup, AOR
Mr. K.P. Singh, Adv.
Mr. Chandra Pratap Singh, Adv.
Mr. Hari Sahteshwar, Adv.
Mr. Devesh Maurya, Adv.
Ms. Pratishtha Majumdar, Adv.

Mr. Nishit Agrawal, AOR
Mr. Ishan Sharma, Adv.
Ms. Kanishka Mittal, Adv.
Ms. Vanya Agrawal, Adv.

Ms. Sunieta Ojha, AOR
Mr. Ishaan Sharma, Adv.

Mr. Dharam Raj Ohlan, Adv.
Mr. Md. Zeeshan Anjum, Adv.
Mr. Ashutosh Bhardwaj, Adv.
Mr. Surjeet Singh, Adv.
Mr. Akash, Adv.
Mr. Vishwa Pal Singh, AOR

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

D. No. 15710/2022:

Put up on 24.03.2023 so as to enable the learned counsel for the contesting respondents to file the counter.

D. No. 10132/2022:

List on 24.03.2023.

D. No. 10221/2022:

List on 24.03.2023.

D. No. 10213/2022:

It is reported that Respondent No.1 has died. His heirs are to be brought on record.

At the instance of learned counsel appearing for the remaining respondents to file the substitution application and/or application for impleadment, put up on 20.03.2023 and to file the counter.

D. No. 8556/2022:

List on 24.03.2023.

D. No. 14591/2022:

Heard Mr. Atul Kumar, learned counsel, appearing for the petitioner and Mr. Ashok Mathur, learned counsel, appearing for Respondent No.1.

Delay condoned

Leave granted.

Arguments concluded.

Order reserved.

D. No. 10218/2022:

The Special Leave Petition stands dismissed for non-prosecution.

D. No. 10476/2022:

As per the office report, Respondent No.1 could not be served as the respondent is not residing at the same address.

Put up on 17.03.2023 so as to enable the petitioner to file an appropriate application for substituted service.

D. No. 10473/2022:

As per the office report, Respondent No.1 has refused to accept the notice. Respondent No.1 is deemed to have been served.

Heard Mr. Atul Kumar, learned counsel, appearing for the petitioner.

Delay condoned

Leave granted.

Arguments concluded.

Order reserved.

D. No. 15623/2022:

At the request of learned counsel for the respondent(s), list on 13.03.2023.

D. No. 14594/2022:

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.

D. No. 15940/2022:

It is reported that Respondent No.3 has expired.

Learned counsel appearing on behalf of Respondent Nos. 1 & 2

has stated that he will furnish the particulars of the heirs of the respondent No.3.

Put up on 24.03.2023 so as to enable the petitioner to file the application for substitution of the heirs of Respondent No.3.

D. No. 14597/2022:

Put up on 17.04.2023.

To be notified along with M.A. D. No. 4470 of 2020.

D. No. 10474/2022:

It is reported that Respondent Nos.1 & 6 have expired.

Learned counsel appearing on behalf of remaining respondents has stated that he will furnish the particulars of the heirs of the Respondent Nos.1 & 6.

Put up on 24.03.2023 so as to enable the petitioner to file the application for substitution of heirs of Respondent Nos.1 & 6.

D. No. 15575/2022:

Delay condoned.

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending applications stand disposed of.

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

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(Signed order(s) is/are placed on the file)