

(2022) 12 JT 99

Supreme Court Of India

Case No: Civil Appeal No. 8933 Of 2022

Government Of Nct Of
Delhi

APPELLANT

Vs

Krishna Saini & Ors

RESPONDENT

Date of Decision: Dec. 2, 2022

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 " Section 24(1)(a), 24(1)(b), 24(2) Land Acquisition Act, 1894 " Section 4, 16, 31, 31(1), 34

Citation: (2022) 12 JT 99

Hon'ble Judges: M.R. Shah, J; C.T. Ravikumar, J

Bench: Division Bench

Advocate: Sujeeta Srivastava, Sanjay Kumar Visen, Sanjeev Prakash Upadhyay, Prachi Chahal, Ritu Rastogi, Sandeep Joshi, Himani Bhatnagar, Sandeep Joshi, Ravi Bharuka, Ankit Agarwal

Final Decision: Allowed

Judgement

M.R. Shah, J

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Delhi at New Delhi in Writ Petition (C) No.

10135 of 2015 by which the High Court has declared that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter

referred to as "Act, 1894") in respect of the subject land 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 "Act, 2013"), the Government of NCT of

Delhi has preferred the present appeal.

2. We have gone through the impugned judgment and order passed by the High Court. Before the High Court, it was the specific case on behalf of the

appellants - original respondents that the possession of the subject land was taken on 05.09.2002. The same was disputed by the original writ

petitioners. However, thereafter, solely on the ground that the compensation has not been tendered and 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 said

writ petition and has declared that the land acquisition proceedings under the Act, 1894 have lapsed by virtue of Section 24(2) of the Act, 2013.

3. The decision of this Court in the case of Pune Municipal Corporation and Anr. (supra), which has been relied upon by the High Court while passing

the impugned judgment and order has been specifically overruled by the Constitution Bench of this Court in the case of Indore Development Authority

Vs. Manoharlal and Ors., (2020) 8 SCC 129. In paragraphs 365 and 366, the Constitution Bench of this Court has observed and held as under:-

“365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] is

hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC

183] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N.,

(2015) 3 SCC 353] 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 [(2018) 3 SCC 412], 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 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 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.Ã¢â¬â¸

4. In view of the above and as the judgment of this Court relied upon by the High Court while passing the impugned judgment and order in the case of

Pune Municipal Corporation and Anr. (supra) has been specifically overruled by this Court and in view of the decision of this Court in the case of

Indore Development Authority (supra), the impugned judgment and order passed by the High Court is unsustainable. The same deserves to be

quashed and set aside and is accordingly quashed and set aside.

Consequently, present appeal is accordingly allowed. No costs.

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