

DELHI DEVELOPMENT AUTHORITY

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v.

SHIV RAJ & ORS.

(Civil Appeal No. 2934 of 2023)

APRIL 19, 2023

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[M. R. SHAH AND AHSANUDDIN AMANULLAH, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – s.24(2) – High Court relying on the decision of Supreme Court in Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors. reported as [2014] 1 SCR 783 declared that the acquisition proceeding initiated w.r.t the land in question is deemed to have lapsed u/s.24(2) – On appeal, held: Decision in Pune Municipal Corporation case relied upon by the High Court while passing the impugned judgment has been overruled by the Constitution Bench in Indore Development Authority v. Manoharlal and Ors. reported as [2020] 3 SCR 1– Applying the law laid down therein to the present case and the fact that the possession of the land in question was taken over, there shall not be any deemed lapse of acquisition – Impugned judgment set aside.

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Indore Development Authority vs. Manoharlal and Ors.
(2020) 8 SCC 129 : [2020] 3 SCR 1 – followed.

Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors. (2014) 3 SCC 183 : [2014] 1 SCR 783 – referred to.

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Case Law Reference

[2014] 1 SCR 783

referred to

Para 2

[2020] 3 SCR 1

followed

Para 2.1

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2934 of 2023.

From the Judgment and Order dated 20.09.2016 of the High Court of Delhi at New Delhi in WP (C) No. 8081 of 2015.

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A Ms. Manika Tripathy, Ashutosh Kaushik, Ishaan Sharma, Manish
Vashist, Ms. Deepti Sharma, Advs. for the Appellant.

Vikramjeet Banerjee, ASG, Ms. Rukhmini Bobde, Ms. Sakshi
Kakkar, Prashant Rawat, Arvind Kumar Sharma, Ms. Sujeeta Srivastava,
Advs. for the Respondents.

B The Judgment of the Court was delivered by

M. R. SHAH, J.

C 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. 8081 of 2015 by which the High Court has allowed the said writ
petition and has declared that the acquisition with regard 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 “Act, 2013”),
the Delhi Development Authority has preferred the present appeal.

D 2. From the impugned judgment and order passed by the High
Court, it appears that it was the specific case on behalf of the appellant
before the High Court and even so stated in the counter filed before the
High Court that the possession of the land in question was taken over on
21.04.2006. However, thereafter and relying upon the decision of this
E 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
acquisition with respect to the land in question is deemed to have lapsed
on the ground that the compensation with respect to the land in question
F had not been paid.

G 2.1 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:-

H “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. A
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. C

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. D

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. E

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. F
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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
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A 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.

C **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.

D **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).

E **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).

F **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.

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366.9. Section 24(2) of the 2013 Act does not give rise to new A
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 B
of taking possession to reopen proceedings or mode of deposit of
compensation in the treasury instead of court to invalidate
acquisition.”

3. Applying the law laid down by this Court in the case of **Indore
Development Authority (supra)** to the facts of the case on hand and C
the fact that the possession of the land in question was taken over on
21.04.2006, there shall not be any deemed lapse of acquisition as observed
and held by the High Court. Under the circumstances, the impugned
judgment and order passed by the High Court is unsustainable.

4. In view of the above and for the reasons stated above, present D
appeal succeeds. The impugned judgment and order passed by the High
Court is hereby quashed and set aside. There shall not be any deemed
lapse of acquisition with respect to the land in question.

Present appeal is accordingly allowed. No costs.

Pending applications, if any, also stand disposed of. E