

(2016) 04 SC CK 0094

In the Supreme Court Of India

Case No : Civil Appeal No. 4544 of 2016 (@ Special Leave Petition (C) No. 11996 of 2015)

Delhi Development Authority

APPELLANT

Vs

Reena Suri and Ors.

RESPONDENT

Date of Decision : 28-04-2016

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24

Citation : (2016) 164 AIC 153 : (2016) 117 ALR 686 : (2016) 2 ApexCourtJudgments(SC) 331 : (2016) 3 CalLJ 51 : (2016) 159 DRJ 489 : (2016) ILRKarnataka 2661 : (2016) 3 JCR 74 : (2016) 5 JT 291 : (2016) 2 KCCR 171 : (2016) 2 LAR 401 : (2016) 2 LawHeraldSC 1718 : (201

Hon'ble Judges : Kurian Joseph; Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : V. Giri, Sr. Adv, Anil Kaushik, Rohit Singh, Ms. Arunima Dwivedi, E. C. Agrawala, Gagan Gupta, Govind Goel, Ms. Garima Prashad, G. Balaji, Ms. Shiva Vijaya Kumar, Sanchar Anand, AAG Apoorv Singhal, Devendra Singh, Shantanu Krishna, Vishnu B. Saharya, Viresh B. Saharya, (for M/s Saharya & Co.), Ashwani Kumar, Rahul Bhatia, Manish Kumar, Ms. Divya Roy, S. Anand, Devender Singh, Ms. Binu Tamta, Ms. Nikita Shrivastava, Dhruv Tamta, Shantanu Sagar, Advocates, for the Appellant; A.K. Sanghi, Sr. Adv, Ajit Sinha, Sr. Adv, R.K. Rathore, Vibhu Shankar Mishra, Mrs. Samta P. Mishra, S.A. Haseeb, Umesh Babu Chaurasia, Neeraj Kumar Sharma, R.S. Nagar, Ajay Kumar Singh, Harish Kumar K. Shailender Saini, Sarfraz A. Siddiqui, Ms. Satya Siddiqui, R.K. Mohanty, Ranjit Kr. Jha, D.S. Mahra, Manish K. Bishnoi, Venkat Poonia, Ravinder Sethi, Sr. Adv, Rajiv Kumar Ghawana, Puneet Sharma, Ms. Vibha Dutta Makhija, Sr. Adv, Ajay Sharma, Rajeev Sharma, Ms. Neelam Sharma, Gopal Shankarnarayanan, Mahesh Agrawal, Ankur Saigal, Rishabh Parikh, Vivek Jain, Ms. Devika Mohan, Ms. Zeeshan Diwan, Ms. Iti Sharma, Ms. C. Mandakini, Ms. Priya Puri, Ms. Esha Mazumdar, Setu Niket, Priyanjali Singh, B.S. Mathur, Bharat Bhushan Jain, S. Anand, Apoorva Singhal, Devender Singh, Kaushik Poddar, B.S. Mathur, Bharat Bhushan, Rajat Mathur, Ms. Smita Maan, Vishal Mann, Naresh Maan, Satyawand Rathi, Bankey Bihari, Shiv Kumar Suri, Shikhil Suri, S.K. Rout, Sumeer Sodhi, Varun Tankha, Amitabh Sinha, Arjun Nanda, Praval Arora, T. Mahipal, Anil Kaushik, Ms. Arunima Dwivedi, Anurag Singh, Harish K, Ms. Rashmi Malhotra, Neeraj K. Sharma, Neeraj Shekhar, Animesh Singh, Ashutosh Thakur, Pradeep Misra, Daleep Dhyani, Suraj Singh, Manoj Kumar Sharma, N.S. Vasisht, Vishal

Singh, Ms. Jyoti Kataria, M.P. Bhargava, Bharat Beriwal, Rajiv Ranjan Dwivedi, Harish Pandey, S.K. Verma, Subhash Kamboj, Abhimanyu, Sumit Bansal, Ateev Mathur, Ms. Richa Oberoi, A.P.S. Saigal, Vikas Kumar, Atul Kumar, Ms. Pinky Anand, ASG. A.K. Sanghi, Sr. Adv. R.K. Rathore, Shadman Ali, Ajay Kr. Singh, Harish Kr. Khinchi, Ms. Kiran Bharadwaj, Ms. Rashmi Malhotra, Ms. Gunwant Dara, Ms. Sunita Sharma, Ms. Sushma Suri, Ranjeet Kumar Jha, Rohtas Nagar, D.S. Mahra, Ms. Rachna Srivastava, Ms. Monika, Anshuman Srivastava, Shailender Saini, Ms. Satya Siddiki, A. Deb Kumar, S.A. Siddiqui, P.K. Biswal, D.S. Mahra, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Kurian, J. - Leave granted.

2. All these appeals have been filed by the Delhi Development Authority, aggrieved by the Judgment of the High Court of Delhi. In the impugned Judgment, the High Court has taken the stand that the land acquisition initiated under the Land Acquisition Act, 1894, and culminating in passing of awards on different dates, has lapsed in view of Section 24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "2013 Act") in respect of the land covered by these appeals. Section 24 of the Act reads as follows :-

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases - (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,--

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the

beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act"

3. It may be seen that under Section 24(2) of the Act, the proceedings initiated under the Land Acquisition Act, 1894 and culminating in award under Section 11 of the said Act would lapse in case the possession after passing of the award has not been taken within five years or more prior to the commencement of the 2013 Act (9 of 2014). This Act came into force on 01.01.2014. Under Section 24 (2) of the 2013 Act, the proceedings would also lapse in case the compensation has not been paid to the owners of the land before 01.01.2014. However, it is made clear under Section 24(2) of the 2013 Act that despite such lapse, it will be open to the appropriate Government to initiate fresh proceedings for acquisition in accordance with the provisions of the 2013 Act.

4. Sh. Vishnu Saharya, learned counsel appearing for the appellant-Delhi Development Authority, has submitted that once an award has been passed, the property vests in the Government and, therefore, there is no lapse. We are afraid, the contentions raised by him cannot be appreciated.

5. Section 16 of the Land Acquisition Act, 1894 reads as follows :-

"Power to take possession - When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon [vest absolutely in the [Government]], free from all encumbrances."

6. Under the above provision, once an award has been made by the Collector under Section 11 of the Act, 1894, the Collector has to take possession of the land and only thereupon, the land will vest in the Government free from all encumbrances. Therefore, passing of the award by itself will not enable the appellant to take a contention that the land has automatically vested with the Government on passing of the award.

7. It is not in dispute that in all these cases, the land has not been taken possession of by the Collector within five years or more prior to 01.01.2014 when the 2013 Act came into force.

8. In that view of the matter, there is no merit in these appeals. The appeals are, accordingly, dismissed.

9. No costs.