

(2023) 01 SC CK 0053

In the Supreme Court Of India

Case No : Civil Appeal No. 342 Of 2023

Delhi Development Authority

APPELLANT

Vs

Shakuntla Devi And Ors

RESPONDENT

Date of Decision : 20-01-2023

Acts Referred:

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

Citation : (2023) 2 Scale 38

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

Bench : Division Bench

Advocate : Ashwani Kumar, Anshay Dhatwalia, Astha Tyagi

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. 5053 of 2016 by which the High Court has allowed the said writ petition preferred by the respondent No. 1 herein – original writ petitioner and has declared that the acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894") 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.

2. In the present case, the notification under Section 4 of the Act, 1894 was issued on 27.06.1996. The Award was also passed vide Award dated 22.06.1999. According to the Land Acquisition Collector (LAC) and as per the counter affidavit filed by the LAC before the High Court, it appears that it was the specific case on behalf of the original respondents that the actual vacant peaceful possession of

the subject land falling in Khasra No. 759(4-16) was taken on 31.12.2013 in which the original writ petitioner is having 1/4th joint share, i.e., admeasuring 1 bigha on the spot and handed over to the requisition agency by preparing proper possession proceedings on the spot. Despite the above and without further commenting upon the taking over of the possession, thereafter, the High Court has allowed the 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 has not been paid/tendered to the original writ petitioner. However, as observed hereinabove, the High Court has not disputed and/or taken into consideration the taking over of the possession by the LAC and handing over to the beneficiary by drawing the panchnama on the spot on 31.12.2013.

3. The view taken by the High Court is unsustainable in view of the decision of the Constitution bench of this Court in the case of Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129.

In paragraph 366, the Constitution Bench of this Court has observed and held as under:-

"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."

4. Applying the law laid down by this Court in the case of Indore Development Authority (supra), the impugned judgment and order passed by the High Court deserves to be quashed and set aside and is accordingly quashed and set aside.

Present appeal is accordingly allowed. No costs. Pending application, if any, also stands disposed of.