

**(2014) 10 RAJ CK 0146**

**In the Rajasthan High Court**

**Case No :** Special Appeal (Writ) No. 1539/2014 in Civil Misc. Stay Application  
No. 8450/2014 in Civil Writ Petition No. 9126/2014

Virendra Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

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**Date of Decision :** 29-10-2014

**Acts Referred:**

Constitution of India, 1950 — Article 166  
General Clauses Act, 1897 — Section 6  
Land Acquisition Act, 1894 — Section 11, 11(2), 24, 4, 5A

**Citation :** (2014) 10 RAJ CK 0146

**Hon'ble Judges :** Sunil Ambwani, Acting C.J.; Veerender Singh Siradhana, J

**Bench :** Division Bench

**Advocate :** Anil Mehta, Advocate for the Appellant; Rajendra Prasad, Additional Advocate General, Advocate for the Respondent

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## **Judgement**

Sunil Ambwani, Actg. C.J.

1. We have heard Mr. Anil Mehta, learned counsel appearing for the appellants/petitioners. Mr. Rajendra Prasad, Additional Advocate General, appears for the State-respondents, and the Jaipur Development Authority.

2. This intra-Court Special Appeal arises out of an order passed by learned Single Judge in a batch of writ petitions, with S.B. Civil Writ Petition No. 9126/2014-Virendra Singh & Ors. Vs. State of Rajasthan & Ors., as a leading case, by which, she was of the opinion that the appellants/petitioners have failed to establish any prima-facie case for the grant of interim relief, and the balance of convenience tilts in favour of the respondents; the petitioners can be compensated in terms of money as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "the Act of 2013"), if they ultimately succeed in the petition. Learned Single Judge observing that if the interim relief is granted, it would cause an irreparable loss to the respondents, and the public at large, dismissed all the stay applications

vide her order dated 24.09.2014. Thereafter by a separate order, after noticing the appearance of Mr. Rajendra Prasad, AAG, on behalf of the respondent No. 2, and waiving service of notice on the respondent Nos. 1, 3 and 4, she directed all the petitions to be listed for final hearing in the third week of November, 2014.

3. Learned counsel appearing for the appellants submits that the land acquisition proceedings, in so far as the appellant/petitioners are concerned, initiated by the Notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the old Act of 1894"), dated 18.07.2005, and the Notification under Section 6, dated 05.08.2006, after making enquiry under Section 5A of the old Act of 1894, have lapsed under sub-section (2) of Section 24 of the Act of 2013, as admittedly possession of the land held by the appellants/petitioners has not been taken. Though the Award was made under Section 11 of the old Act of 1894, on 11.09.2008, since the amount of compensation was deposited in the civil Court on 22.08.2014, the proceedings for acquisition of land are deemed to have lapsed. He has relied upon the judgments of the Apex Court in *Pune Municipal Corporation and Another Vs. Harakchand Misirimal Solanki and Others*, , and *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu*, , in which the Supreme Court has interpreted the statutory provisions of sub-section (2) of Section 24 of the Act of 2013. It is submitted that learned Single Judge has grossly erred in law even after noticing the judgments of the Apex Court in *Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors.* (supra), and *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu* (supra), to hold that since in the instant case, about 95% of the land owners of the land covered under the Notification under Section 4 of the Act, have already surrendered/handed over the possession of their lands voluntarily, and received the compensation, either in cash, or in terms of developed land, the disputed lands of the petitioners, comprising of an area of only 78.5593 hectares, out of the total area of 1578.958 hectares, under acquisition, spread over 47 villages, will stall the entire project of Ring Road and the Corridor, if the interim relief is granted.

4. Brief facts giving raise to this Special Appeal, are that the State Government of Rajasthan issued a Notification under Section 4 of the old Act of 1894 on 18.07.2005, for acquisition of 1578.958 hectares of land for Ring Road and development corridor, spread over 47 villages from Ajmer Road to Tonk Road, to ease the congestion of traffic in the City of Jaipur, and to provide for a development corridor on both sides of the road, to avoid haphazard development in corridor, spread over 135 mtrs. on each side of 90 mtrs. wide Ring Road. The objections invited under Section 5A of the old Act of 1894, were disposed of by the State Government, after which the Notification under Section 6 was issued on 05.08.2006. Thereafter, notices under Section 9(1) of the old Act of 1894 were issued, and finally village-wise awards (47 in number) were passed by the Special Land Acquisition Officer, and were approved by the State Government in the year 2008 and 2009. The Award in respect of the land of the appellants/petitioners, was made on 11.09.2008. In some of the petitions, the Award was

made in July, 2008.

5. The Ring Road was proposed from Agra Road to Ajmer Road, for a total length of 47 kms. in all, to be divided in four parts. It was initially proposed to be constructed by the Public Works Department. The project was thereafter handed over to the Jaipur Development Authority, established under the Jaipur Development Authority Act, 1982. The Jaipur Development Authority made calculations proposing compensation, to be paid by reserving and allotting the land to the Khatedars", to the extent of 25% of the developed land, to be allotted in the corridor, which was acquired by the impugned Notifications, for which the Khatedars" were required to submit their options for reservation of 25% of the developed land for mixed use.

6. Before making the Award, options were invited. The Awards made in the year 2008/2009, did not provide for cash compensation for all the Khatedars". For those Khatedars", who handed over the possession of the land on record after giving affidavits, and proof of ownership, the Award mentioned about reservation of land in their favour for mixed use. In the award, a reference was made of their choosing the compensation in the form of developed land in lieu of monetary compensation. Even after passing of the Award, several beneficiaries continued to surrender their land for the project.

7. So far as the present appellants/petitioners are concerned, it is admitted that their land is situated in village Pipla Bharat Singh. An area of 57.92 hectares of the land pertaining to this village was under acquisition, for which an Award was made on 11.09.2008, out of which 26.5497 hectares of land was surrendered before the Award was passed, and the possession was taken on 06.06.2012. The compensation for 0.35 hectares of land was determined by the Land Acquisition Officer, and since it was in dispute, it was deposited in the Court on 06.06.2012 before the possession was taken. It is admitted by the respondents that 11.04 hectares of land in total was surrendered, out of 57.92 hectares of land, by 01.01.2014, and 0.24 hectares was surrendered thereafter. The compensation for 19.74 hectares of land was deposited with the Civil Court on 22.08.2014 i.e. after 01.01.2014, when the New Act of 2013 came into force. For the land of the appellants/petitioners, compensation was deposited in the civil Court vide letter dated 22.08.2014, after which the land was recorded in the name of Jaipur Development Authority.

8. Learned counsel appearing for the appellants submits that the Ring Road, and the development corridor was initially conceived and prepared by the Public Works Department, Government of Rajasthan. The project was thereafter handed over to the Jaipur Development Authority by the State Government. The project thereafter, despite Notifications issued under Sections 4 and 6 of the old Act of 1894, on 18.07.2005 and 05.08.2006 respectively, and making of the Awards in the year 2008-2009, was lying in abandoned state. No steps were taken for construction of the road, nor any advertisement was made to select the concessionaire for construction of the road by way of public-private participation

under the Built Operate and Transfer Scheme. The work for construction of the road has not started as yet. He submits that the Act of 2013 was enforced with effect from 01.01.2014, providing for rehabilitation and resettlement to the affected persons and their families, which were not addressed by the old Act of 1894. Multiple amendments were made to the old Act of 1894 by the Central Government as well as the State Governments. Looking to the growing public concern on the land acquisition, especially of multi-cropped irrigated land, and to address the issues with regard to rehabilitation and resettlement of the displaced persons, which are two sides of the same coin, a single integrated law was proposed and enacted. The Act has given a restricted meaning to the word "public purpose" for acquisition of land for strategic purposes vital to the State, and for infrastructure projects, where the benefits accrue to the general public, and also for acquiring private lands for companies. The unified legislation deals with the acquisition of land, to provide for just and fair compensation, and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families.

9. It is submitted that Section 114(1) of the Act of 2013, has repealed the Land Acquisition Act, 1894. Sub-section (2) of Section 114, provides that save as otherwise provided in the Act, the repeal under sub-section (1), shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897, with regard to the effect of repeals, which means the proceedings initiated under the old Act of 1894, were allowed to continue. Section 24 however provides for deemed lapse of the land acquisition process in certain cases. Section 24 of the Act of 2013, is quoted as below:-

"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 (1 of 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 subsection (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under 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 the 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."

10. It is submitted by learned counsel appearing for the appellants that under the old Act of 1894, an award must provide for cash compensation. Sub-section (2) of Section 11 of the old Act of 1894, provides for agreement, to be entered into between the Collector and the land owners, in writing, on the matters to be included in the award, in the form prescribed by the rules made by the appropriate Government. The agreement, however, can only be in respect of monetary compensation, and not for reservation of land in favour of those, who surrendered the land. The State of Rajasthan had not made any statutory Rules under sub-section (2) of Section 11 of the old Act of 1894. The policy of the State of Rajasthan to provide land in lieu of compensation, was by way of executive instructions, was struck down by the Rajasthan High Court. He submits that the claim of the respondents that they have passed the Awards in 2008-2009 in respect of 1047.3073 hectares of land, and the disputes with regard to 78.5593 hectares of land were referred to the Civil Court, was entirely illegal and arbitrary, and thus the Awards for compensation by reservation of 25% developed land are null and void.

11. So far as the appellants/petitioners' case is concerned, it is submitted that admittedly possession has not been taken, and though Award was made for cash compensation, the amount was deposited in the Civil Court by making an application on 22.08.2014 (Annexure-R/1), in support of the reply to stay application of Shri Rajkumar Singh, Deputy Commissioner, Zone-11, Jaipur Development Authority, Jaipur.

12. It is submitted that conditions on which acquisition will lapse under sub-section (2) of Section 24 of the Act of 2013, are applicable to the facts of the present case. Since the physical possession of the land has not been taken, and that the Award under Section 11 was made more than five years ago, and the compensation was not deposited in the civil Court, there is no escape from the statutory application of the deeming provision for the acquisition to have lapsed in respect of the land of the petitioners. The appropriate Government, if it so chooses, may initiate proceedings of such land acquisition afresh, in accordance with the provisions of the Act.

13. It is submitted that the Proviso to sub-section (2) of Section 24 of the Act of 2013, does not save the deemed lapse of the acquisition under sub-section (2). It carves out a case, 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 (old Act), shall be entitled to compensation in accordance with the provisions of this Act (Act of 2013). The

Proviso has no application and does not save acquisition which has lapsed under subsection (2) of Section 24 of the Act of 2013.

14. It is submitted that the question with regard to deemed lapse of the acquisition is no longer *res integra* inasmuch as the Apex Court in *Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors.* (supra), has interpreted the provisions of sub-section (2) of Section 24 of the Act of 2013, which has been further explained in *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu* (supra),

15. In *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu* (supra), decided on 10.09.2014, the Proviso to sub-section (2) of Section 24, was also explained by the Supreme Court. It was held that; "The law is trite that when the main enactment is clear and unambiguous, a proviso can have no effect so as to exclude from the main enactment by implication what clearly falls within its express terms." In paragraph 12 of the judgment, the Supreme Court also explained that Section 24(2) of the Act of 2013, has been prescribed with a view to benefit the land-losers and the period spent in litigation due to challenge to the award or the land acquisition proceedings, cannot be excluded. The Supreme Court, thereafter, in paragraph 13, held as follows:-

"13. From the discussions made above, it is amply clear that though there is lack of clarity on the issue whether compensation has been paid for majority of land holdings under acquisition or not, there is no dispute that physical possession of the lands belonging to the Appellants under consideration in these appeals has not been taken by the State or any other authority on its behalf and more than five years have elapsed since the making of the award dated 30.11.2006 and 01.01.2014 when the 2013 Act came into force. Therefore, the conditions mentioned in Section 24(2) of the 2013 Act are satisfied for allowing the plea of the Appellants that the land acquisition proceedings must be deemed to have lapsed in terms of Section 24(2) of the 2013 Act. The appeals are disposed of accordingly. It goes without saying that the Government of Tamil Nadu shall be free, if it so chooses to initiate proceedings of such land acquisition afresh in accordance with the provisions of 2013 Act. In the facts and circumstances of the case there shall be no order as to costs."

16. Learned counsel appearing for the appellants has also referred to a judgment of the Supreme Court in *Bharat Kumar Vs. State of Haryana & Anr.* (Civil Appeal No. 1971/2014), decided on 04.02.2014, in which sub-section (2) of Section 24 of the Act of 2013 was interpreted as follows:-

"Sub-section (2) of Section 24 commences with a non-obstante clause. It is a beneficial provision. In view of this provision, if the physical possession of the land has not been taken by the Acquiring Authority though the award is passed and if the compensation has not been paid to the land owners or has not been deposited before the appropriate forum, the proceedings initiated under the Act, 1894 is deemed to have been lapsed.

9. Keeping the aforesaid provisions in view, we have specifically looked into the assertions made by the appellant and the way it is countered by the respondents. In our opinion though the award has been passed by the Land Acquisition Collector, they have not taken the physical possession of the land and have not paid the compensation to the appellant or had deposited the said compensation before an appropriate forum.

10. In that view of the matter, in our considered opinion, sub-section (2) of Section 24 of the Act, 2013 squarely applies to the appellant's case and the appellant is entitled to relief sought for in their petition.

11. In the result, we allow this appeal, set aside the order passed by the High Court qua the appellant only. We declare that the acquisition proceedings insofar as the appellant is concerned are deemed to have lapsed.

12. We permit the respondents, if they so desire, to initially appropriate proceedings for acquisition of the land in question afresh in accordance with the provisions of the Act, 2013

Ordered accordingly."

17. It is submitted that filing of the earlier writ petition by the petitioners, prior to the enactment and enforcement of the Act of 2013, will not bar the present writ petition inasmuch as new rights have been created under sub-section (2) of Section 24 of the Act of 2013, which were sought to be enforced in the writ petition. The judgment of learned Single Judge dated 15.02.2012, disposing of a batch of writ petitions on the ground of alternative remedy, referring the petitioners to the Empowered Committee, will not operate as res judicata, as the rights of the petitioners were not decided, and further there was no question of adjudication of the new rights in the earlier writ petition, which came into existence with effect from 01.01.2014, and by which, under sub-section (2) of Section 24, acquisition of land has lapsed. It is submitted that in the previous litigation, the Rajasthan High Court did not consider any of the legal questions regarding nature of the acquisition of land. The colourable exercise of power in handing over the project to the Jaipur Development Authority, and acquisition of land on both sides of the Ring Road, is arbitrary, as there was no need to acquire the land, of which a large part is proposed to be sold to the private developers and the builders, to take out the cost of construction of the road, which was to be borne, in any case, by the concessionaire under the BOT agreement. The effect of earlier judgments of the Rajasthan High Court, declaring the provisions of compensation by way of providing land in the same area, which was acquired, and the effect of not making an award providing for monetary compensation under sub-section (2) of Section 11 of the old Act of 1894 was not considered, and all the writ petitions were summarily disposed of, referring the petitioners to the Empowered Committee, which had no authority to decide these issues.

18. Learned counsel appearing for the appellants would further submit that in Jaipur Development Authority Vs. Lalaram and Others, , the Division Bench of

the Rajasthan High Court has held that for the acquisition made under the old Act of 1894, there is no provision for allotment of land, and that the Government Order dated 01.07.2005, providing for allotment elsewhere, was not authenticated, and was not an executive order, enforceable under Article 166 of the Constitution of India. The Tribunal had no authority to decide the place of allotment, and that even if it is assumed that the Government Instructions were valid, it could not apply to the subsequent cases when the land was not available, or where value is highly disproportionate. In view of the binding judgments of the Rajasthan High Court, the provisions of developed land in the same area, which was acquired, to the extent of 25%, was entirely arbitrary and illegal exercise of power. In any case, it is submitted that acquisition has lapsed under sub-section (2) of Section 24 of the Act of 2013, so far as the appellants are concerned.

19. Learned counsel appearing for the State-respondents, and the Jaipur Development Authority, submits that the instant Special Appeal arising out of the interim order, by which stay has not been granted, thus, it is not maintainable under Rule 134 of the Rajasthan High Court Rules. He submits that possession of the land has been taken, and the compensation stand deposited in the Civil Court vide letter dated 22.08.2014. The land of the appellants/petitioners is situated in village Pipla Bharat Singh. 57.92 hectares of land of this village was under acquisition, out of which 38.1797 hectares is in possession of the respondents. Four writ petitions were filed along with the petition of the present appellant/petitioners. Out of them, the petitioners in CWP Nos. 9128/2014, 9129/2014 and 9160/2014, have surrendered their possession, with an undertaking to accept the compensation in the form of developed land, in lieu of compensation and money. The total land of the appellants/petitioners, as surrendered, is 13.75 hectares, and out of 57.92 hectares, 51.9297 hectares was in possession of the respondents, and the possession of the appellants' land has also been taken now. The petitioners in CWP No. 9130/2014, of the same village, have not filed any appeal.

20. It is submitted that the earthwork in approximately 20 kms. of the project has been carried out in different patches. In approximately 10 kms. of project area, gravel work was also completed in different patches. Irrespective of surrendering and taking physical possession of the land earlier, many of the Khatedars" have again encroached upon the open land of the project area for cultivation. The structures, coming in the project area at several places, were not removed, and the regular project work was not fully commenced and such structures continued to be occupied by the land holders. In such a situation, for the purpose of implementation of the project, a drive for demarcating the whole project area from point zero, till the end by digging trenches on both sides of the boundaries of the project area and simultaneously, doing the earthwork while removing the obstacles, was commenced on 25.09.2014. Most of the land holders cooperated and have vacated the premises themselves. The whole of 47 kms. of the length of project for undertaking the activities was to be proposed for

possession within one week except in village Bagrana, where most of the land under acquisition is dotted with residential constructions. The action for taking this area under possession, which is hardly 500 mts. in length, is also going on. The pillars have been installed and the boundaries have been demarcated. The compensation of almost entire land, under acquisition, stand deposited/paid, and mutations have been made in favour of the Jaipur Development Authority. The construction of the main Ring Road has already been assigned for implementation of this prestigious and important project, under a contract, and in the event of non-availability of land, public exchequer would be affected adversely. In paragraph 4 of the reply, filed in the appeal, it is stated that tenders for construction of six roads in the development corridor area, have also been floated, and the work is in progress, and that larger public interest is going to be served by this project.

21. It is submitted by learned counsel appearing for the respondents that Section 11(2), as amended by Act 68 of 1984, does not prohibit for compensation by way of developed land, for the land acquired by the State Government for development. The Award passed by the Land Acquisition Officer, reserving 25% land on the consent given by the land owners, is neither bad, nor illegal. He submits that the judgment in Jaipur Development Authority Vs. Lalaram & 7 Ors. (supra), is not applicable to the facts of the present case. The policy was not struck down by the Division Bench of the High Court. The said judgment was rendered on its own facts.

22. Learned counsel appearing for the State-respondents spent considerable time on explaining the purpose of the Proviso to sub-section (2) of Section 24 of the Act of 2013. He submits that even if the Award was made more than five years ago, and physical possession of the land was not taken, nor compensation was deposited in the Civil Court prior to 01.01.2014, if the majority of the land holders have surrendered the land, they may be entitled only to compensation, in accordance with the provisions of the Act of 2013. In such case, the proceedings for acquisition for part of the land acquired, will not lapse under sub-section (2) of Section 24 of the Act of 2013. It is submitted that in case sub-section (2) of Section 24, which is exception to repeal under Section 114 of the Act of 2013, is applied to the present land acquisition proceedings, which is only protection of the land acquired, the public interest will be jeopardized. The Proviso has to be read in a manner that in all the cases, where sub-section (2) of Section 24 applies, if the majority of the land holders have surrendered their land, they may be entitled only to the enhanced compensation. He submits that learned Single Judge did not commit any error of law in holding that larger public interest will suffer, if the construction of the Ring Road is stalled, and that in any case, the petitioners could be compensated in terms of the compensation, rehabilitation and resettlement, to be provided under the Act of 2013.

23. We allowed an opportunity of hearing to learned counsel for the appellants as well as the respondents, spread over several days, and have considered the

arguments raised at the bar. It is no doubt that the project of Ring Road is an ambitious project, planned to ease the congestion of traffic in the City of Jaipur, and if the project is stalled at this stage, it may allow complications in implementing it in future. The issues raised, however, are required to be considered by the Court, before the project may be allowed to proceed any further.

24. The facts leading to the writ petition, would show that repeated challenges were made to the land acquisition made by the State Government, in which initially the project was conceived to be undertaken by the Public Works Department, and was thereafter handed over to the Jaipur Development Authority. The High Court, however at no stage, considered the challenge both, to the acquisition of large area of the land for corridors, in which part of the land was to be allotted to the Khatedars", of which more than 50% is to be settled for private purpose to take out the cost of construction of the road, the Court also did not consider the challenge to the executive instructions, issued by the State Government, for providing developed land, in lieu of the land acquired, and more particularly, in the same project. At no stage of the challenge, the Court had an occasion to consider as to whether reservation of 25% of the land acquired in the same project, which were to be allotted subsequently by lottery, would be a valid Award under sub-section (2) of Section 11 of the old Act of 1894. All the writ petitions were disposed of, referring the parties to the Empowered Committee, which had no authority in law to decide the issues, raised in the writ petition. The effect of the judgment of this Court in Jaipur Development Authority Vs. Lalaram & 7 Ors. (supra), was not considered by the High Court in deciding the writ petitions.

25. We are relieved of going into the question of res judicata, which is the species of estoppel inasmuch as the reliefs claimed in the writ petition, giving rise to the instant appeal, are based upon the statutory lapse of the proceedings under sub-section (2) of Section 24 of the new Act of 2013, for which the cause of action has accrued to the petitioners after the enforcement of the New Act of 2013.

26. In the present case, it is admitted that in respect of the subject land, an Award was made on 11.09.2008, which is more than five years prior to commencement of the Act of 2013 on 01.01.2014, and that physical possession of the land was also not taken before 01.01.2014, and for which, compensation was deposited in the Civil Court on 22.08.2014 i.e. after 01.01.2014. On these facts, and on the interpretation given to sub-section (2) of Section 24 of the Act of 2013, by the Hon"ble Supreme Court in Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors. (supra), Bharat Kumar Vs. State of Haryana & Anr. (supra), decided on 04.02.2014, and in Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu (supra), decided on 10.09.2014, the only conclusion which can be drawn by the Court is, that the acquisition of the land, so far as the appellants are concerned, is deemed to have lapsed, in

view of sub-section(2) of Section 24 of the Act of 2013.

27. We are of the view that learned Single Judge erred in law, even after noticing the admitted facts and the judgments in *Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors.* (supra), and *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu* (supra), in holding that since the possession of about 95% of the lands, under acquisition, has already been surrendered/handed over by the concerned land owners, the entire project of Ring Road and corridor would be stalled, if the interim relief, as prayed for by the appellants/petitioners, is granted, and for which, earthwork and gravel work in 20 kms. of the road has already started.

28. In view of the findings recorded by learned Single Judge, on the applicability of sub-section (2) of Section 24 of the Act of 2013, as interpreted in the latest judgments of the Apex Court, the finding that the petitioners have failed to establish any prima-facie case for the grant of interim relief, cannot be sustained. On the admitted facts, acquisition of the land of the appellants/petitioner had lapsed, in view of subsection (2) of Section 24 of the Act of 2013. The Proviso to sub-section (2) of Section 24 has no application to the facts of the present case, as it does not operate to save the lapse of the acquisition of the land of the appellants/petitioners. In *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu* (supra), the effect of the Proviso was considered by the Apex Court, and it was conclusively held that where conditions mentioned in sub-section (2) of Section 24 of the Act of 2013, are satisfied, and the acquisition is deemed to have lapsed, the Proviso would not save the acquisition. The Supreme Court made it open to the State Government to acquire the land, if it so chooses, in accordance with the provisions of the Act of 2013.

29. The question of balance of convenience and irreparable loss, or that any such loss caused to the respondents and the public at large, may be compensated, was not required to be considered, as the appellants/petitioners had established a strong indefeasible prima-facie case in their favour, where acquisition of land itself has lapsed, in view of the statutory provisions under sub-section (2) of Section 24 of the Act of 2013. The question of compensating the appellants/petitioners for acquisition of their land, did not arise, and thus, in our view, the considerations on which balance of convenience and irreparable loss were weighed in favour of the respondents, were entirely misplaced.

30. In view of the aforesaid discussion, and further in view of the fact that learned Single Judge has fixed the matter for hearing in the third week of November, 2014, without expressing any final opinion on the merits of the matter, considering the fact that if the land in respect of which acquisition has lapsed, is forcibly occupied, and the developments are made changing the nature of the land, the injury to be caused will be irreparable, we direct the parties to maintain the status-quo in respect of possession of the land, as on 28.08.2014, when the writ petition was filed. Learned Single Judge is requested to decide the writ petition finally, as expeditiously as possible.

31. The Special Appeal is accordingly disposed of.