REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 482 OF 2023
(@ SLP (C) NO. 1866 OF 2023)
(@ DIARY NO. 29470 OF 2021)

Land Acquisition Collector & Anr. …Appellant(s)

Versus

Ashok Kumar & Ors. …Respondent(s)

J U D G M E N T

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. 3581 of 2015, by which, 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 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 Land Acquisition Collector & Anr. have preferred the present appeal.

2. Having heard learned counsel appearing on behalf of the respective parties and having gone through the impugned judgment and order passed by the High Court it can be seen that by the impugned judgment and order the High Court has declared that the acquisition with respect to the land in question is deemed to have lapsed on the ground that neither the possession of the land in question was taken nor the compensation has been tendered/paid and relying upon the earlier decision of this Court in the case of **Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors., (2014) 3 SCC 183**, and decision of the High Court in the case of **Gyanender Singh & Ors. Vs. Union of India & Ors decided on 23.09.2014 in W.P. (C) No. 1393/2014**.

3. However, it is required to be noted that before the High Court it was the specific case on behalf of the appellant(s) and so recorded by the High Court in paragraph 4 of the impugned judgment and order that the physical possession could not be taken because of the operation of stay order passed in writ petitions in which the stay order was continuing. The High Court has also observed that "it is an admitted position that the stay order continued to operate till 01.01.2014 when the 2013 Act came into effect." In the case of **Indore Development Authority**

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

> **"366.** In view of the aforesaid discussion, we answer the questions as under:
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> **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.
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> **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.
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> **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.
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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 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. Thus, as per the decision of Constitution Bench of this Court in the case of **Indore Development Authority (supra)** the period during which the stay was operating is to be excluded.

5. 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 more particularly, even when the Act, 2013 came into force the stay order continued to operate and due to which the

possession of the land in question could not be taken, there shall be no deemed lapse under Section 24(2) of the Act, 2013.

6. Now so far as the reliance placed upon the decision of this Court in the case of **Pune Municipal Corporation (supra)** by the High Court and the decision of the High Court in the case of **Gyanender Singh (supra)** are concerned, the decision of this Court in the case of **Pune Municipal Corporation (supra)** has been overruled by the Constitution Bench of this Court in the case of **Indore Development Authority (supra).** The decision of the High Court in the case of **Gyanender Singh (supra)** is just contrary to the decision of this Court in the case of **Indore Development Authority (supra).** Therefore, the impugned judgment and order passed by the High Court is unsustainable and the same deserves to be quashed and set aside.

7. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the High Court allowing the writ petition and declaring that the acquisition in respect of the land in question is deemed to have lapsed under Section 24(2) of the Act, 2013 is hereby quashed and set aside. The original writ petition before the High Court stands dismissed. There shall be no deemed lapse of the

acquisition with respect to the land in question under Section 24(2) of the Act, 2013.

Present appeal is accordingly allowed. No costs.

Pending applications, if any, also stand disposed of.

…….J.
[M.R. SHAH]

NEW DELHI; …….J.
MARCH 13, 2023. **[C.T. RAVIKUMAR]**