



2025:AHC:161627-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
WRIT - C No. - 29144 of 2025**

Harish Kumar Yadav And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

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| Counsel for Petitioner(s) | : | Pallavi Mishra, Vivek Prakash Mishra |
| Counsel for Respondent(s) | : | C.S.C., Kaushalendra Nath Singh      |

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**Court No. - 29**

**HON'BLE MAHESH CHANDRA TRIPATHI, J.  
HON'BLE ANISH KUMAR GUPTA, J.**

1. Heard Ms. Shravan Kumari, Advocate holding brief of Sri Vivek Prakash Mishra, learned counsel for the petitioners, Sri Kaushalendra Nath Singh, learned counsel appearing for Noida Authority, and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State respondents.

2. The instant writ petition has been preferred for the following reliefs:

*"(i) Issue a writ, order or direction in the nature of mandamus directing the respondents to decide the matter of petitioners as without acquiring of their land and granting compensation, used their land and name of Noida Development Authority has been recorded into revenue records and further release the land of petitioners Khasra no. 158M, 159, 160M, 161, 162, 163, 164/1M situated in village Basai Brahuddin Nagar, Pargana and Tehsil Dadri, District Gautam Buddha Nagar as compensation has not been paid till today.*

*(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to decide the pending representation of the petitioners dated 12.12.2024."*

3. Learned counsel for the petitioners submits that the petitioner no.1 had purchased a plot admeasuring 500 sq. yards in khasra nos. 158M, 159, 160M, 161, 162, 163, 164/1M situated in village Basai Brahuddin Nagar, Pargana and Tehsil Dadri, District Gautam Buddha Nagar from one Ram Prasad through registered sale deed dated 16.03.1998. The petitioner no.2 has obtained the land in question by means of agreement to sale with the

petitioner no.1 on 04.10.2024. He submits that the right to property is protected under Article 300A of Constitution of India and thus, no person can be deprived of his property without following due procedure of law. The land of a person cannot be acquired without payment of due compensation in accordance with law. He further submits that the property of a citizen can only be acquired for public purpose on payment of reasonable compensation in accordance with law. However, without giving compensation to the petitioners, the land of the petitioners has been acquired and the name of NOIDA Authority has also been recorded in the revenue record. In support of his submission, he has placed reliance upon the judgment passed by the Apex Court in **Vidya Devi vs. State of H.P.**, (2020) 2 SCC 569, in which the Apex Court did not accept the concept of oral consent of persons for depriving him/her of his/her valuable rights over the property.

4. Per contra, Sri Kaushalendra Nath Singh, learned counsel for Noida Authority vehemently opposed the writ petition and submits that the acquisition proceeding under the Land Acquisition Act, 1894 (in short 'Act of 1894'), has commenced in the year 2005. The land bearing Khasra No.158M, 159, 160M, 161, 162, 163, 164/1M, Rakba Nos. 0.2980, 0.1260, 0.2400, 0.1640, 0.2660, 0.0630 and 0.4300 were part of the acquisition proceeding. The notification under Section 4 read with Section 17(4) were gazetted on 12.04.2005 and later on, a final declaration under Section 6/7 of the Act of 1894 took place on 06.10.2005. As the urgency clause was invoked, the possession was taken on 30.12.2005 and the award was also made on 29.12.2010. Once the award was made and the possession of the land was taken, the land gets vested in the State free from all encumbrances. Till date, the petitioners have not challenged the acquisition proceedings and it is always open to them to press the relief before the Special Land Acquisition Officer for disbursement of the compensation.

5. Similar objection has also been raised by Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State respondent that once the possession has been taken invoking the urgency clause and subsequently the award has been made, the land had vested in the State free from all encumbrances and even the State cannot revert back the possession in favour of the original tenure holder. The writ petition is totally misconceived and the same is liable to be dismissed on the ground of delay and laches.

6. Heard rival submissions advanced by the parties and perused the record.

7. In the instant matter, the acquisition is of the year 2005 and at the time of notification under Section 4 and 6, urgency clause under Section 17 (1) and 17 (4) of the Act, 1894 was invoked. Admittedly, the possession of the land was taken over on 30.12.2005 and later on, the award was also made on 29.12.2010 and third party interest had been created. Once the urgency clause had been invoked under the old Act, 1894, law is well settled that the land gets vested in the State free from all encumbrances. In the facts and circumstances, we cannot accept any such challenge to the acquisition proceeding with such inordinate delay. Moreover, as per the petitioners own pleading, the land in question had been mutated in favour of the NOIDA Authority way back in the revenue record.

8. A Constitution Bench of Hon'ble Apex Court in **Indore Development Authority v. Manoharlal & Ors.**, SLP (C) Nos. 9036 – 9038 of 2016 dt. 6.3.2020, has observed that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the Act, 2013. In the said case, the Apex Court has considered the correct interpretation of Section 24 of the Act, 2013 and finally answered as under:-

*"359. We are of the considered opinion that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the Act of 2013. The provisions of Section 24 do not invalidate the judgments and orders of the Court, where rights and claims have been lost and negated. There is no revival of the barred claims by operation of law. Thus, stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In exceptional cases, when in fact, the payment has not been made, but possession has been taken, the remedy lies elsewhere if the case is not covered by the proviso. It is the Court to consider it independently not under section 24(2) of the Act of 2013.*

*360. It was submitted that Section 101 provides for return of unutilized land under the Act of 2013. Section 101 provides that in case land is not utilized for five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government. Section 101 reads as under:*

*"101. Return of unutilized land.-- When any land, acquired under this Act*

*remains unutilized for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.*

*Explanation.-- For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government-owned vacant, abandoned, unutilized acquired lands and tax-delinquent properties into productive use."*

*361. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilized land. Section 101 cannot be said to be applicable to an acquisition made under the Act of 1894. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with respect to all lands acquired under the Act of 2013 as the expression used in the opening part is "When any land, acquired under this Act remains unutilized". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions of Section 101 cannot be applied to the acquisitions made under the Act of 1894. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the Act of 2013. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilized under Section 24(2).*

*362. Resultantly, the decision rendered in Pune Municipal Corporation & Anr. (supra) is hereby overruled and all other decisions in which Pune Municipal Corporation (supra) has been followed, are also overruled. The decision in Shree Balaji Nagar Residential Association (supra) 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 (Dead) through L.Rs. and Ors., (supra), 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.*

*363. In view of the aforesaid discussion, we answer the questions as under:*

*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 Act of 2013, there is no lapse*

*of proceedings. Compensation has to be determined under the provisions of Act of 2013.*

*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 Act of 2013 under the Act of 1894 as if it has not been repealed.*

*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 Act of 2013 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.*

*4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 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 Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.*

*5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, 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). Land owners 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 Act of 2013.*

*6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

7. *The mode of taking possession under the Act of 1894 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 Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).*

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 Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority 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.*

9. *Section 24(2) of the Act of 2013 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 Act of 2013, 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.*

*Let the matters be placed before appropriate Bench for consideration on merits."*

*(Emphasis supplied)*

9. In catena of judgments it is held that in a case where land is needed for a public purpose, the Court should be cautious in interfering in the acquisition proceeding on the ground of delay alone as it is likely to cause serious prejudice to the persons for whose benefit the scheme is framed and it would also hamper the planned development of the area.

10. Considering the facts and circumstances, as discussed above, we find that the acquisition is of the year 2005. Admittedly, the urgency clause was invoked under the Act, 1894. It is also well settled legal proposition that once the land is vested in the State free from all encumbrances, it cannot be divested and the proceeding under the Act, 1894 would not lapse. Even in the light of the judgment passed by Constitution Bench of Hon'ble Apex Court in Indore Development Authority (Supra), no relief can be accorded to the petitioner under Section 24 (2) of the Act, 2013.

11. In view of aforesaid facts and circumstances, no reprieve can be accorded to the petitioners. However, in case the the petitioners have not received the compensation, they can always press the application for disbursement of the compensation before the competent authority/ADM (Land Acquisition), Gautam Budh Nagar.

12. With the aforesaid observation, the writ petition stands **disposed of**.

**(Anish Kumar Gupta,J.)    (Mahesh Chandra Tripathi,J.)**

**September 10, 2025**  
Ashish Pd.