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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 357 of 2015**

Pt. Ravishanker Shukla University, Through its Registrar, having its office at
RSU Campus, Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Arun Kumar Agrawal S/o Late Harishanker Agrawal, aged about 59 years, R/o MIG 628, Sector 2, Dindayal Upadhyay Nagar, Raipur, Chhattisgarh.
2. Om Prakash Agrawal S/o Late Harishanker Agrawal, aged about 57 years, R/o J-377, Surya Vihar Colony, Bhilai, Tahsil and District Durg, Chhattisgarh.
3. Anandmohan S/o Late Harishanker Agrawal, aged about 51 years, R/o House No. 11/2, Tupe-5, D.G.Q.R.H.V.E State, Abadi, Chennai 54
4. Ashutosh Agrawal S/o Late Harishanker Agrawal, aged about 63 years, R/o MIG 165, Sector-2, Dindayal Upadhyay Nagar, Raipur, Tahsil and District Raipur, Chhattisgarh.
5. Smt. Asha Lata W/o Shri Surendra Kumar Agrawal, aged about 66 years, (Retired Principal) R/o Choubey Colony, Raipur, Tahsil and District Raipur, Chhattisgarh.
6. State of Chhattisgarh Through The Secretary, Department of Revenue, DKS Bhawan, Raipur, Now Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
7. The Collector, Collectorate, District Raipur, Chhattisgarh.
8. Sub Divisional Officer-cum-Land Acquisition Officer, Raipur, District Raipur, Chhattisgarh.

---- Respondents**Writ Appeal No. 355 of 2015**

Pt. Ravishanker Shukla University, Through its Registrar, Pt. Ravi Shanker
University, Bhilai Road, Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Om Prakash Agrawal S/o Late Shri R.R.Agrawal, aged about 50 years, R/o Om Kutir, Civil Lines, Raipur, Tahsil and District Raipur, Chhattisgarh.
2. State of Chhattisgarh Through The Secretary, Department of Revenue, DKS

Bhawan, Raipur, Now Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.

3. Collector, Collectorate, Raipur, Chhattisgarh.
4. Sub Divisional Officer/Land Acquisition Officer, Collectorate, Raipur, District Raipur, Chhattisgarh.
5. Officer-in-Charge, Land Acquisition Branch, Collectorate, Raipur, Chhattisgarh.

---- Respondents

Writ Appeal No. 356 of 2015

Pt. Ravishanker Shukla University, Through its Registrar, having its Office at R.S.U. Campus, Raipur, Chhattisgarh.

---- Appellant

Versus

1. Dr. P.C.Agrawal S/o Shri R.B.Agrawal, aged about 50 years, Residing at care of United blood bank Raja Talab, Raipur City, Tahsil and District Raipur, Chhattisgarh.
2. State of Chhattisgarh, Through, the Secretary Department of Revenue, D.K.S. Bhavan, Raipur, now Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
3. The Collector, District Raipur, Chhattisgarh.
4. Sub Divisional Officer-cum-Land Acquisition Officer, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri H.B.Agrawal, Senior Advocate with Smt. Preeti Yadav, Advocate.
For Respondent/State	:	Shri UNS Deo, Government Advocate.
For Private Respondents	:	Shri Sourabh Sharma, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board

24/07/2015

1. The present appeals arise from a common order dated 15.6.2015 passed in three separate writ petitions at the behest of the persons whose lands were sought to be acquired.

2. Learned Senior Counsel for the Appellants submits that notification under Section 4 was published on 20.1.2006. Section 6 notification was published on 14.3.2006. The challenge to non-compliance with the requirement for hearing objections was raised belatedly. The Award had been prepared and final compensation amount deposited by the University with the State authorities. There was an interim order passed by the Court subsequently. In the meantime, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called 'the Act') came into effect. Delay in acquisition on account of the stay order of the Court cannot be taken into consideration to hold applicability of the aforesaid Act. That period has to be excluded. If the compensation deposited has not been paid to the Respondents or collected by them and the fault lies with the State Government, the Appellant cannot be penalised for the same. The interest of the University, a public institution has to be kept in mind alongwith the nature of the public purpose of the acquisition. The fact that possession may not have been taken by the State Government despite payment of compensation by the University cannot act to its prejudice as the University has done everything that it was required to do for acquisition.

3. Interpreting Section 24(1)(a) and (b) of the Act, it was submitted that Award had already been published before coming into force of the new Act. The proceedings were therefore required to be continued. The stay order of the Court cannot be taken into consideration. The proceedings cannot be deemed to have lapsed under Section 24(2) of the Act merely for the reason that the State did not take possession for five long years especially when compensation had been deposited by the University. It cannot be said that it was a case where no compensation had been paid to the persons whose lands were to be acquired. It was reiterated that the University had done all that it was required to do by deposit of the amount with the State Government. The last submission was that in the facts of the case, acquisition proceedings

would be saved by Section 114 of the Act providing for savings clause.

4. Learned Counsel for the State does not dispute the findings of the Learned Single Judge that compensation had not been paid by it to the writ petitioners/Respondents. It is also not disputed that physical possession of the lands was not taken by the State Government before the Act came into force.

5. Learned Counsel for the private Respondents submitted that their writ petition was filed without delay in the year 2006 itself. It remained pending before the Court with interim orders. The new Act came into force on 1.1.2014 after the judgment in (2015) 3 SCC 327 (Magnum Promoters Private Limited v. Union of India) delivered on 27.11.2014, the Union of India published an ordinance on 1.1.2015 as noticed in (2015) 3 SCC 206 (Karnail Kaur v. State of Punjab) to exclude the period for which land acquisition proceedings may have remained stayed. The ordinance titled "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014" adding a second proviso to Section 24(2) of the Act has no application to the facts of the present case as the acquisition stood lapsed on 1.1.2014 itself by virtue of the judgment in Magnum Promoters Private Limited (supra). It was inter alia also held to be prospective in operation.

6. We have considered the submissions on behalf of the parties.

7. It is an indisputable position that Section 4 notification was published in 2006. Compensation has not been paid to the land owners till date and neither possession of their lands had been taken. In the meantime, the new Act has come into force.

8. In Magnum Promoters Private Limited (supra) possession of the lands had not been taken when the new Act came into force. The defence on behalf of the land owners was under Section 24(2) of the new Act contending that the

acquisition proceedings had lapsed as possession had not been taken when the new Act came into force and which was upheld after recording finding that physical possession had not been taken. It is considered appropriate to set out the following extract from the same:

"7. Having regard to the facts narrated above that neither physical possession of the land nor was compensation awarded paid to the appellant, it is contended that the acquisition proceedings of the land of the appellant have lapsed. In support of the aforesaid submission he has placed reliance upon the decisions of this Court in the *Pune Municipal Corporation v. Harakchand Misirimal Solanki* [(2014) 3 SCC 183], *Union of India v. Shiv Raj* [(2014) 6 SCC 564], *Bimla Devi v. State of Haryana* [(2014) 6 SCC 583], *Bharat Kumar v. State of Haryana* [(2014) 6 SCC 586] and *Sree Balaji Nagar Residential Association v. State of Tamil Nadu* [(2015) 3 SCC 353]. Therefore, the learned senior counsel has requested for grant of relief as prayed for in this application.

8. The above said provision of the Act of 2013 quoted above has been interpreted by the three Judge Bench of this Court in *Pune Municipal Corporation (supra)*, the relevant paras 20 and 21 from the case are extracted hereunder:-

"20.....it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the court. The deposit of compensation amount in the Government treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.

21. The argument on behalf of the Corporation that the subject land acquisition proceedings have been concluded in all respects under the 1894 Act and that they are not affected at all in view of Section 114(2) of the 2013 Act, has no merit at all, and is noted to be rejected. Section 114(1) of the 2013 Act repeals the 1894 Act. Sub-section (2) of Section 114, however, makes Section 6 of the General Clauses Act, 1897 applicable with regard to the effect of repeal but this is subject to the provisions in the 2013 Act. Under Section 24(2) land acquisition proceedings initiated under the

1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of the 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied. The applicability of Section 6 of the General Clauses Act being subject to Section 24(2), there is no merit in the contention of the Corporation."

9. Further, reliance was also placed on the decision of this Court in *Sree Balaji Nagar Residential Association (supra)*, wherein it was opined that Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceedings might have remained stayed on account of stay or injunction or "status quo" order regarding possession of the land granted by any court. It was conclusively held that the Legislature has consciously omitted to extend the period of five years indicated in Section 24(2) of the 2013 Act, even if the proceedings had been delayed on account of an order of stay or injunction granted by a court of law or for any reason.

10. It was further contended that the phrase used under Section 24(2) is 'physical possession' which means actual taking over possession from the appellant-land owner by the Land Acquisition Collector. In support of this contention he has also placed reliance upon two judgments of this Court in *Prahlad Singh v. Union of India* [(2011) 5 SCC 386] and *Raghubir Singh Sehrawat v. State of Haryana* [(2012) 1 SCC 792]."

9. The ordinance dated 1.1.2015 has been held to be prospective in operation. The writ applications were filed long before in 2006 and Section 24(2) of the Act took effect on the date of its enactment itself.

10. In view of the aforesaid settled law reiterated in several judgments all of which are not considered necessary to set out herein, we find no merit in these appeals.

11. The writ appeals are dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge