

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. **CWP No.856-2006**
Date of Decision: November 07, 2016
M/s Trim India P.LtdPetitioner
Versus
State of Haryana and othersRespondents
2. **CWP No.2925-2006**
M/s S.K.T. Engineers FirmPetitioner
Versus
State of Haryana and othersRespondents
3. **CWP-2268-2006**
M/s Reiko Auto IndustriesPetitioner
Versus
State of Haryana and Anr.Respondents
4. **CWP-871-2006**
M/s Clarion Pharmaceutical Co.LtdPetitioner
Versus
State of Haryana and othersRespondents
5. **CWP-3822-2006**
Ramesh alias RamesharPetitioner
Versus
State of Haryana and othersRespondents
6. **CWP-1990-2006**
Mangat Ram & othersPetitioners
Versus
State of Haryana and othersRespondents
7. **CWP-2621-2006**
Devi Ram and othersPetitioners
Versus
State of Haryana and othersRespondents
8. **CWP-1111-2006**
Kartar and others.Petitioners
Versus
State of Haryana and othersRespondents
9. **CWP-14085-2007**
Raj Singh and othersPetitioners
Versus
State of Haryana and othersRespondents
10. **CWP-15285-2006**
Satya Pal and othersPetitioners
Versus
State of Haryana and othersRespondents
11. **CWP-1889-2006**
M/s Reko Trading Co.Petitioner
Versus
State of Haryana and Anr.Respondents
12. **CWP-841-2006**

Laxman	Petitioner
Versus	
State of Haryana and others	Respondents
13. CWP-12802-2007	
M/s Petro Ways India Pvt.Ltd. and others	Petitioners
Versus	
State of Haryana and others	Respondents
14. CWP-14696-2006	
Anil Girotra and others	Petitioner
Versus	
State of Haryana and others	Respondents
15. CWP-843-2006	
M/s NU Tech Inks & Allied Products 39KM Stone Delhi.....	Petitioner
Versus	
State of Haryana and others	Respondents
16. CWP-820-2006	
AVS Brake Linings Pvt.Ltd.	Petitioner
Versus	
State of Haryana and others	Respondents
17 CWP-3168-2006	
M/s Raghbir Machinery Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
18. CWP-14666-2004	
Kailash Chand Khanna	Petitioner
Versus	
State of Haryana and others	Respondents
19. CWP-2721-2006	
Lachhman Dass	Petitioner
Versus	
State of Haryana and others	Respondents
20. CWP-3020-2006	
M/s KEGGFARMS Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
21. CWP-8750-2006	
Damodar Lal Mangla and Anr.	Petitioners
Versus	
State of Haryana and others	Respondents
22. CWP-7043-2006	
Amit Gupta and Another	Petitioners
Versus	
State of Haryana and others	Respondents
23. CWP-2568-2006	
M/s G.E.O.Miller & Co. Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
24. CWP-19972-2005	
Narayan Singh and others	Petitioners
Versus	
State of Haryana and others	Respondents
25. CWP-18943-2007	

Dalbir Singh and another	Petitioners
Versus	
State of Haryana and others	Respondents
26. CWP-1299-2006	
Speciality Coating & Laminations	Petitioners
Versus	
State of Haryana and others	Respondents
27. CWP-785-2006	
M/s Swati Aluminium	Petitioners
Versus	
State of Haryana and others	Respondents
28. CWP-15631-2006	
M/s Suntax Finance and Investment Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
29. CWP-4015-2006	
M/s Honeywell International (India) Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
30. CWP-3600-2006	
M/s Jagjit Engineering Industries Pvt.Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
31. CWP-12906-2006	
M/s Anand Spinning and Weaving Mills and another	Petitioners
Versus	
State of Haryana and others	Respondents
32. CWP-959-2006	
M/s Goodcare Pharma Private Ltd.	Petitioners
Versus	
State of Haryana and others	Respondents
33. CWP-910-2006	
Shree Baidyanath Ayurved Bhawan Private Limited	Petitioners
Versus	
State of Haryana and others	Respondents
34. CWP-4676-2006	
M/s Tex Corp. Limited	Petitioners
Versus	
State of Haryana and others	Respondents
35. CWP-2251-2006	
Rajesh & Ors.	Petitioners
Versus	
State of Haryana and others	Respondents
36. CWP-1868-2006	
Lance Naik Mange Ram	Petitioners
Versus	
State of Haryana and others	Respondents
37. CWP-6247-2006	
Rattan Singh and another	Petitioners
Versus	
State of Haryana and others	Respondents
38. CWP-2829-2006	

Harjit Singh and another	Petitioners
Versus	
State of Haryana and others	Respondents
39. CWP-16363-2005	
HMD Technologies	Petitioners
Versus	
State of Haryana and others	Respondents
40. CWP-8893-2008	
Jain Biradari Garhi Harsaru	Petitioners
Versus	
State of Haryana and others	Respondents
41. CWP-5252-2006	
Gajraj Singh and Others	Petitioners
Versus	
State of Haryana and others	Respondents
42. CWP-15292-2006	
Naraini Devi	Petitioners
Versus	
State of Haryana and others	Respondents
43. CWP-2154-2006	
P V Justin and another	Petitioners
Versus	
State of Haryana and others	Respondents
44. CWP-16087-2004	
Rajni Barara & another	Petitioners
Versus	
State of Haryana and others	Respondents
45. CWP-13238-2004	
Hari Ram	Petitioners
Versus	
State of Haryana and others	Respondents
46. CWP-11964-2006	
R.N.Aggarwal	Petitioners
Versus	
State of Haryana and others	Respondents
47. CWP-6081-2007	
Constance Bhaty and others	Petitioners
Versus	
State of Haryana and others	Respondents
48. CWP-3544-2006	
Balbir Singh and others	Petitioners
Versus	
State of Haryana and others	Respondents
49. CWP-1108-2006	
Rajesh Jain and others	Petitioner
Versus	
State of Haryana and others	Respondents
50. CWP-6846-2007	
Archana Kumari Yadav	Petitioner
Versus	
State of Haryana and others	Respondents
51. CWP-5630-2006	

Pushp Garg	Petitioner
Versus	
State of Haryana and others	Respondents
52. CWP-2308-2007	
Jatin Sapra and another	Petitioners
Versus	
State of Haryana and others	Respondents
and	
53. CWP-1365-2006	
Sukhpal and Others	Petitioners
Versus	
State of Haryana and others	Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Sudhir Aggarwal, Advocate
Mr.Alok Jain, Advocate,
Mr.M.L.Sharma, Advocate
Mr.Aashish Chopra, Advocate,
Mr.Sandeep Sharma, Advocate
Mr.Sunil Chadha, Sr.Advocate with
Ms.Swati Verma, Advocate
Mr.Harsh Kinra, Advocate
Mr.Adarsh Jain & Mr.Amit Kumar, Advocates &
Ms.Kuldeep Kaur, Advocate
Mr.Narender Hooda, Sr.Advocate with
Ms.Snigdha Dash & Mr.Sameer Rohtagi, Advocates
Mr.J.P.Ahlawat, Advocate for
Mr.N.D.Achint, Advocate
Mr.Shailendra Jain, Sr.Advocate with
Mr.Salil Nayyar, Advocate
Mr.Ashish Aggarwal, Sr.Advocate with
Mr.Vijay S.Kajla, Advocate
Mr.Vikas Behl, Sr.Advocate with
Mr.Jaspreet Kaur, Advocate
Mr.Sanjay Vij, Advocate
Mr.Munish Jolly, Advocate
Mr.Ashok Tyagi, Advocate
Mr.Sachin Mittal, Advocate
Mr.J.L.Malhotra, Advocate
Mr.C.B.Goel, Advocate and
Mr.Manoj Sharma, Advocate
Mr.Sanjeev Kumar Panwar, Advocate
Mr.Sunil K.Rana, Advocate,
Mr.N.L.Sammi, Advocate,
Mr.Amit Jain, Advocate

Mr.Rajender Chhokar, Advocate
Mr.C.M.Munjal, Advocate
Mr.Gaurav Mahunta, Advocate with
Mr.Komal Abrol, Advocate
Mr.Aman Bansal, Advocate
Mr.Deepak Kumar Chawla, Advocate
for the petitioners.

Ms.Palika Monga, DAG, Haryana.

Mr.Kamal Sehgal, Advocate for HSIIDC.

Mr.R.S.Khosla, Sr.Advocate with
Ms.Ishrat Phulka, Advocate
Mr.Alok Kumar Jain, Advocate for UOI
Mr.Sunil Kumar Sharma, Sr.Panel counsel for UOI.

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SURYA KANT, J.

This order shall dispose of the above captioned writ petitions as the common question which arises for consideration in these cases is whether Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the New Act') is attracted and consequently whether the acquisition of land/properties of the petitioners vide Notifications dated 29.01.2003 and 28.01.2004 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act') followed by Award dated 27.01.2006 deserves to be declared to have lapsed?

[2] It is not necessary to go into the descriptions of properties under acquisition or the individual grounds taken on merits by the petitioners for challenging the acquisition of their respective land/properties. Suffice to mention that land/properties of petitioners situated in the revenue estates of villages Narsinghpur, Khandsa, Mohammadpur Jharsa, Harsaru, and Garoli Khurd, Tehsil & District Gurgaon were acquired vide above-stated Award for the public purpose of "Special Economic Zone". In the light of the admitted

fact that during the pendency of these writ petitions the New Act has come into force w.e.f. 01.01.2014, learned counsel for the parties are *ad idem* that wherever Section 24(2) of the New Act is held to be applicable, the impugned acquisition in such case will be deemed to have lapsed.

[3] With a view to attract Section 24(2) of the New Act, petitioners are obligated to establish at least one of the following two ingredients, namely:

- “(i) that they did not consent to receive the compensation amount and in the absence of such consent, the compensation amount has not been deposited with the Court where Reference under Section 18 was maintainable in accordance with Section 31(1) of the 1894 Act, before the New Act came into force on 01.01.2014; and
- (ii) notwithstanding the fact that the Award was passed and their land/properties stood vested in the State free from all incumbrances, possession of the acquired land/properties have not been taken from them for a period of five years or more from the date of passing of the Award till the New Act came into force on 01.01.2014.”

[4] For the purpose of answering the question formulated at the outset and in compliance to the order passed by this Court on 23.09.2014, Mr.Kamal Sehgal, learned counsel for HSIIDC has come up with the compilation in a Tabulated Form, acknowledging the fact that in the cases described below, neither the petitioners have received compensation nor possession of the acquired land/properties has been taken over by HSIIDC (except CWP No.19972 of 2005 **Narayan Singh and Others vs State of Haryana and others** in which also only part compensation has been received by the land-owners):-

No.	CWP No.	Land Details	Status of Compensation	Status of possession	Remarks (date & Order)
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Narsinghpur					
1	856/06	5//6/1/2 (OKL-12ML), 6/1/1/2 (2KL-11ML), 15/1 (OKL-8ML) 0.444 acres	Not lifted	Possession of land not with HSIIDC	19.01.06 NOM stay dispossession
2.	2925/06	6//14/1 min (OKL-10ML) 0.063acres	Not lifted	Possession of land not with HSIIDC	27.02.06 NOM stay dispossession
3.	2268/06	5//16 min (OKL-6ML) 0.038 acres	Not lifted	Possession of land not with HSIIDC	16.02.06 NOM stay dispossession
4.	871/06	5//15/2 (OKL-7.25 ML) 0.045 acres	Not lifted	Possession of land not with HSIIDC	19.01.06 NOM stay dispossession
5.	3822/06	11//18/2 (4KL-4ML) 0.53 acres	Not lifted	Possession of land not with HSIIDC	09.03.06 NOM stay dispossession
6.	1990/06	11//12/2/2 (5KL-10ML) 0.69 acres	Not lifted	Possession of land not with HSIIDC	09.02.06 NOM stay dispossession
7.	2621/06	11//12/2/1 (OKL-11ML), 19/1 (5KL-0ML), 22/2 (5KL-0ML) 1.32 acres	Not lifted	Possession of land not with HSIIDC	21.02.06 NOM stay dispossession
8.	1111/06	6//24/3 (OKL-7ML), 25/2 (2KL-1ML) 0.30 acres	Not lifted	Possession of land not with HSIIDC	24.01.06 NOM stay dispossession
9.	14085/07	5//24/2 min (1KL-18ML), 6//4/2 min (3KL-0ML) 0.613 acres	Not lifted	Possession of land not with HSIIDC	11.09.07 NOM stay dispossession
10.	15285/05	5//5(3KL-14ML) 0.46 acres	Not lifted	Possession of land not with HSIIDC	25.09.06 NOM status quo
11.	1889/06	5//16 min (OKL-6ML),17/1/1 (OKL-1ML) 0.044 acres	Not lifted	Possession of land not with HSIIDC	07.02.06 NOM stay dispossession
12.	841/06	1//21/1/2 (1KL-18ML) 0.24 acres	Not lifted	Possession of land not with HSIIDC	19.01.06 stay dispossession
13.	12802/07	7//4/1 (4KL-17ML), 5/1/1 (OKL-8ML), 4//24 (7KL-4ML) 1.56 acres	Not lifted	Possession of land not with HSIIDC	20.08.07 NOM stay dispossession
14.	14696/06	5//16 min (3KL-15ML), 6//14/3 min (OKL-10ML), 15/3 min (10KL-3ML), 17/2/1 min (OKL-3ML), 14/1 (OKL-3ML), 15/1 min (OKL-7ML) 0.63 acres	Not lifted	Possession of land not with HSIIDC	14.09.06 NOM stay dispossession
15	843/06	7//18/2/2 (5KL-7ML) 0.67 acres	Not lifted	Possession of land not with HSIIDC	19.01.06 NOM stay dispossession
16.	820/06	5//24/2 (OKL-3.2 ML), 25 (7KL-8ML) 6//4/2 (OKL-5.8ML), 5(5KL-8ML) 1.91 acres	Not lifted	Possession of land not with HSIIDC	19.01.06 NOM stay dispossession
17.	3168/06	7//7/2(2KL-19ML),8(8KL-0ML), 14/1 (1KL-3ML) 1.513 acres	Not lifted	Possession of land not with HSIIDC	02.03.06 NOM stay dispossession
18.	14666/04	6//7/2(6KL-12ML), 8/1 (1KL-12ML) 1.03 acres (8KL-4ML)	Not lifted	Possession of land not with HSIIDC	10.12.04 NOM stay dispossession
Khandwa					
19.	2721/06	1039(0B-16B-0B), 1040/1	Not lifted	Possession of land	23.02.06 NOM

		(0B-7B-0B) 0.72 acres		not with HSIIDC	stay dispossession
20.	3020/06	1062(10B-9B-0B), 1063/1(5B-4B-0B), 1068min (3B-9B-12B), 1072min (1B-12B-0B), 1073(0B-5B-0B),1074(0B-16B-0B), 1075(1B-16B-0B), 1076 (0B-6B-0B), 1078/1 (1B-8B-12B), 1078/2min(3B-16B-2B), 1079min(0B-12B-0B), 1085/2 (5B-0B-0B) 21.7 acres (34B-14B-6B)	Not lifted	Possession of land not with HSIIDC	02.03.06 NOM status quo
21.	8750/06	1063/2(5B-4B-0B) 3.25 acres	Not lifted	Possession of land not with HSIIDC	30.05.06 NOM stay dispossession
22.	7043/06	1620/1081/2(0B-7B-8B)0.23 acres	Not lifted	Possession of land not with HSIIDC	08.05.06 notice of motion
23.	2568/06	1047(0B-11B-0B), 1048(0B-12B-0B), 1049 (0B-12B-0B), 1050min (1B-1B-0B), 1314/1058 (0B-9B-0B), 1315/1059 (1B-9B-0B), 2.94 acres (4B-14B-0B)	Not lifted	Possession of land not with HSIIDC	28.03.06 NOM. No stay. Award amount for Khasra No.1050min deposited at A.D.J. Gurgaon U/s -30 & balance amount not lifted
24.	19972/05	67(0B-6B-0B), 68(5B-16B-0B), 69(7B-16B-0), 102 (1B-5B-10.2B), 113 (1B-10B-4B) 10.43 acres (16B-13B-14.2B)	Compensation lifted for Khasra No.113. Balance compensation not lifted	Possession of land not with HSIIDC	07.02.06 NOM stay dispossession
25.	18943/07	87/2(1B=13B-12B) 1.05 acres (1B-13B-12B)	Not lifted	Possession of land not with HSIIDC	31.01.08 NOM for 03.03.08 No stay
Village Mohammadpur Jharsa					
26.	1299/06	12//23(8-0), 24(8-0), 21//4/1 (4-10) 2.56 acres (20-10)	Not lifted	Possession of land not with HSIIDC	30.01.06 NOM stay dispossession
27.	785/06	11//13/2 (4KL-16ML), 14/1/1/2(0KL-5ML), 19/1(4KL-0KL) 1.13 acres (9KL-1ML)	Not lifted	Possession of land not with HSIIDC	19.01.06 NOM stay dispossession
28.	15631/06	24//19(7KL-12ML) 0.95 acres	Not lifted	Possession of land not with HSIIDC	10.10.06 NOM stay dispossession
29.	4015/06	9//10/2(6KL-9ML), 11(7KL-12ML), 20(7KL-12), 21(7KL-12ML), 12//1/2 (3KL-12ML) 4.11 acres (32 KL-17ML)	Not lifted	Possession of land not with HSIIDC	16.03.06 NOM stay dispossession
30.	3600/06	11//3/2(0-18), 7/2/3/1 (0-11), 8(7-0), 13/1 (3-4), 14/1/1 (0-3) 1.48 acres (11-16)	Not lifted	Possession of land not with HSIIDC	07.03.06 NOM stay dispossession
31.	12906/06	24//3/2 (6-9), 7/1(2-12), 8(8-0), 13/1(4-11) 2.7 acres (21-12)	Not lifted	Possession of land not with HSIIDC	21.08.06 NOM status quo
32.	959/06	21//5/1 (5KL-14ML), 22/1 (8KL-0ML) 1.71 acres (13KL-14ML)	Not lifted	Possession of land not with HSIIDC	21.01.06 NOM stay dispossession

33.	910/06	12//25/2 (3KL-2ML) 0.39 acres	Not lifted	Possession of land not with HSIIDC	20.01.06 NOM stay dispossession
34.	4676/06	24//3/1 (1KL-11ML) 0.19 acres	Not lifted	Possession of land not with HSIIDC	24.03.06 NOM stay dispossession
35.	2251/06	19//25/1(7KL-8ML), 25//8/1(4KL-0ML), 8/2/1 (2KL-15.7ML), 9/1 (7KL-9ML), 10/1 (2KL-8ML) & 332/769 share of 20/7, 14, 17,24 & 25//14/1	Not lifted	Possession of land not with HSIIDC	16.02.06 NOM stay dispossession
36.	1868/06	437/769 share of 20//7(8-0), 14(8-0), 17(8-0), 24(8-0), 25//4/1(5-11)	Not lifted	Possession of land not with HSIIDC	07.02.06 NOM stay dispossession
37.	6247/06	10//19 (6-16), 22/1(4-0), 11//2(8-0), 3/1(6-7), 9(7-18) 4.13 acres (33-1)	Not lifted	Possession of land not with HSIIDC	25.04.06 NOM stay dispossession
38.	2829/06	24//6/2(0-17), 15/1 (3-14), 23//11(1-0) 0.69 acres (5-11)	Not lifted	Possession of land not with HSIIDC	02.03.06 NOM stay dispossession
39.	16363/05	20//21(8-0) 1 acres	Not lifted	Possession of land not with HSIIDC	08.12.05 NOM stay dispossession
40.	8893/08	11//16min(0-16) 0.10acres	Not lifted	Possession of land not with HSIIDC	25.05.08 NOM no stay.
Village Harsaru					
41.	5252/06	102//12(8-0), 103//13/2/1 (6-14), 13/2/2(0-17), 14/1 (5-16), 14/2 (0-18), 15(8-0), 16/1 (6-13), 17min (6-16), 18/1 (1-15) 5.06 acres (40-9)	Not lifted	Possession of land not with HSIIDC	03.04.06 NOM stay dispossession
42.	15292/06	105//5/2/2 (3-9), 6/2/1(2-19), 6/2/3 (1-7), 15/1/1 (0-13) 1.05 acres (8-8)	Not lifted	Possession of land not with HSIIDC	25.09.06 NOM status quo
43.	2154/06	113//19(8-0), 20(8-12), 22(3-7) 2.49 acres (19-19)	Not lifted	Possession of land not with HSIIDC	14.02.06 NOM stay dispossession
44.	16087/04	90//15/3(2-0), 91//11(8-0),20(8-0) 2.25 acres (18-0)	Not lifted	Possession of land not with HSIIDC	Stay dispossession granted on 20.01.05
45	13238/04	36//19/3(2-13), 20/1(5-16) 1.06 acres (8-9)	Not lifted	Possession of land not with HSIIDC	30.08.04 NOM stay dispossession
46	11964/06	91//1/2(4-0), 2/1(7-8), 9/2 (6-16), 10/1/1(2-1) 2.53 acres (20-5)	Not lifted	Possession of land not with HSIIDC	03.08.06 NOM stay dispossession
47.	6081/07	90//2(7-2), 8(6-18.5), 9(5-17), 1(7-7), 11/2/2 (2-0),12(8-0), 13/1(1-16) 5 acres (40-0.5)	Not lifted	Possession of land not with HSIIDC	26.04.07 NOM stay dispossession
Village Garoli Khurd					
48.	3544/06	27//8(6-9), 12/2(3-0), 13(8-0), 9/1 (3-0) 2.56 acres (20-9)	Not lifted	Possession of land not with HSIIDC	17.03.06 NOM stay dispossession
49.	1108/06	24//13/4(0-17), 19//22/1(0-4), 22/2(0-4), 26//10/1(0-8), 10/2 (0-4).	Not lifted	Possession of land not with HSIIDC	24.01.06 NOM stay dispossession
50.	6846/07	12//24/1/2(0-17) 0.11 acres	Not lifted	Possession of land not with HSIIDC	08.05.07 NOM stay

					dispossession
51.	5630/06	24//13/2 (2-9), 13/3(0-4) 0.33 acres (2-13)	Not lifted	Possession of land not with HSIIDC	06.04.06 Stay dispossession
52.	2308/07	11//14/2(2-0), 14/3(2-0), 15(8-0) 1.50 acres (12-0)	Not lifted	Possession of land not with HSIIDC	13.02.07NOM.
53.	1365/06	19//22/1(2-13), 22/2 (6-17) 1.19 acres (9-10)	Not lifted	Possession of land not with HSIIDC	30.01.06 NOM stay dispossession

[5] In view of the admitted fact that the compensation amount has neither been received/paid to the petitioners nor it has been deposited in the Court where Reference under Section 18 was maintainable before the New Act came into force on 01.01.2014, there can be no escape but to hold that the impugned acquisition qua the petitioners' lands shall be deemed to have lapsed.

[6] Equally forceful is their plea that since possession of the acquired properties is still with them, be it be due to *ad interim* stay granted by this Court, the impugned acquisition is liable to be declared to have lapsed on the second ground also, namely, retention of possession of the acquired properties/land by the petitioners for a period of more than five years from the date of Award and before the New Act came into force on 01.01.2014.

[7] In all fairness, learned State counsel has urged that since the petitioners have been able to retain the possession as a result of stay granted by this Court and the issue whether such period is to be included or excluded for attracting Section 24(2) has been referred to a Larger Bench by the Hon'ble Supreme Court, hence, these matters may be kept pending. We are, however, not impressed by the contention. In a recent order dated 27.10.2016 passed in CWP-17464-2007 (Satnam Singh and another vs State of Haryana and others), this aspect has been expressly dealt with and we have

held as follows:

“[31] Category No.(3)

Adverting to the cases which fall in Category No.(3), it is true that the Hon’ble Supreme Court vide order dated 12.01.2016 passed in **Yogesh Neema and others versus State of Madhya Pradesh and others, (2016) 6 SCC 387** has referred the matter to a Larger Bench to re-consider the legal effect of the absence of any specific exclusion of the period covered by an interim order of the Court, in the context of Section 24 (2) of 2013 Act. Such a reconsideration is required to be made, as observed by the Hon’ble Supreme Court, keeping in view the maxim of '*Actus Curiae Neminem Gravabit*'.

[32] Learned counsel for the petitioners nonetheless relied upon the decisions in (i) **Sree Balaji Nagar Residential Association versus State of Tamil Nadu and others, (2015) 3 SCC 353** ; (ii) **Rajiv Chowdhrie HUF versus Union of India and others, 2014 SCC Online 990**; (iii) **Sharma Agro Industries versus State of Haryana and others, (2015) 3 SCC 341** ; and (iv) **Yogesh Neema and others versus State of Madhya Pradesh and others, (2016) 6 SCC 387** to urge that the period of Court-stay or injunction need not to be excluded while computing the period of 5 years within the meaning of Section 24(2) of the Act and that in a case where physical possession of the land could not be taken by the State due to interim stay granted by the Court, there also the acquisition shall be deemed to have lapsed.

[33] This Court cannot be oblivious of the fact that as

of now the above cited decisions explicitly hold that Section 24(2) of 2013 Act will apply with full force even if the expropriated owner/occupier retained the possession for relevant period under the stay order passed by a Court. These are binding precedents.

“[34] State of Maharashtra and another versus Sarva Shramik Sangh, Sangli and others (2013) 16 SCC 16, unequivocally holds that where the Supreme Court has doubted the correctness of its own judgment and referred the matter before a Larger Bench, the earlier judgment on a point of law has to be followed and it will have the binding force within the meaning of Article 141 of the Constitution. We are thus of the view that until the Hon’ble Supreme Court lays down otherwise, the decisions cited in para No.32 of this order are binding on this Court on the interpretation of Section 24(2) of 2013 Act on the question of 'exclusion' or 'inclusion' of the period of stay or injunction against dispossession granted by a Court.”

[8] In the light of the above discussion, the only irresistible conclusion would be to hold that as a result of non-payment of compensation amount to the petitioners or the failure of authorities in depositing the same with the Competent Court, as also their failure to take possession of the acquired land/ properties, for whatever reason it may be, the provisions of Sections 24(2) of the New Act are fully attracted and are applicable in the captioned cases.

[9] Consequently, these writ petitions are allowed. The acquisition of the petitioners' land/properties vide Award dated 27.01.2006 is declared to have lapsed under Section 24(2) of the New Act.

(2) of the New Act itself, in so many words, contemplates the possibility of reacquisition of the land/property in respect whereof the previous acquisition has lapsed, it is necessary to direct the petitioners to maintain *status quo* re: creation of third party rights; to keep the land/property free from all types of incumbrances and not to change the nature of land/property for a period of one year so that meanwhile the respondent-State may, if such property is needed for a “public purpose”, again acquire it. Such a direction is necessitated also for the reason that in numerous cases State or its agencies have taken possession in part and development works have been executed except over that land/property in litigation. Those development works ought to be completed in public interest and the only consequence of lapsing of previous acquisition, mostly due to fault of the Government Officers/ Officials, would be that the owners of such land/property will be entitled to compensation and other benefits admissible under the New Act.

(SURYA KANT)
JUDGE

November 07, 2016
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(SUDIP AHLUWALIA)
JUDGE

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|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |