

amount of compensation has been paid and as such in view of the provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the proceeding for acquisition shall be deemed to have been lapsed and it would be open for the Respondent-State and the appropriate Government, if it so chooses, to initiate the proceeding of such land acquisition afresh in accordance with provision of the Act of 2013. An affidavit-in-reply has been presented by the Deputy Collector (Land Acquisition No.4, Pune) and in paragraph No.2 of the reply it is stated as follows :-

“ I state that in the present matter though Award is passed on 31.12.2003, the amount of the compensation is not paid to the land owner, as the Acquiring Body has not deposited the amount of compensation inspite of our letter dated 15/01/2004.”

3 So far as the delivery of possession of the acquired land is concerned, it is stated in paragraph No.4 that since the funds were not made available for payment of compensation by the acquiring body, necessary steps for obtaining possession were not initiated by the Deputy Collector. It is thus clear that neither the possession of the property has been taken over, nor the amount of compensation has been paid to the Petitioner in respect of the land under acquisition. Alongwith the affidavit-

in-reply the Collector has also annexed the communication issued to the Superintending Engineer, Pune Irrigation Circle, by the Executive Engineer Bhama Askhed Irrigation Division, Pune. It is proposed by the Executive Engineer that the project work in respect of construction of left and right bank canal being technically and financially unviable, the aforesaid project work shall be deleted. It is thus clear that the acquiring body also do not propose to carry out the project work in respect of the left and right bank canal and the proposal in that regard has been moved. So far as the dropping of the proceeding for acquisition is concerned, it is within the domain of the State Government or the appropriate authority to consider the aspect and in the instant Petition, we are not called upon to consider the issue of dropping of the acquisition proceeding. The Petitioner contends that in view of provisions of Section 24(2) of the Act of 2013, the proceedings for acquisition have lapsed since neither possession has been taken over nor the amount of compensation has been paid. Sub-section 2 of Section 24 of the Act of 2013 provides that notwithstanding anything contained in Sub-Section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under Section 11 has been made five years or more prior to the commencement of

this Act of 2013 but the physical possession of the land has not been taken or the compensation has not been paid the 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 of 2013. In the instant matter admittedly the award has been declared five years or more prior to the enforcement to the Act of 2013 and that neither physical possession of the property has been taken nor the amount of compensation has been paid.

4 In this view of the matter, the Writ Petition deserves to be allowed and the same is accordingly allowed. The proceeding in respect of acquisition of land belonging to the Petitioner i.e. an area to the extent of 18 R out of Gat No.13 situated at Birdavadi Village, Tal. Khed, District Pune, shall be deemed to have lapsed and it would be open for the State to take steps as permissible under law if it so chooses.

5 Rule is accordingly made absolute. There shall be no order as to costs.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)