

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 572 OF 2019

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| 1. | Reliance Natural Resources Limited, |] |
| | a public limited company incorporated |] |
| | under the provisions of |] |
| | the Companies Act, 1956 and having |] |
| | its registered office at H Block, 1 st Floor, |] |
| | Dhirubhai Ambani Knowledge City, |] |
| | Navi Mumbai, Mumbai 400 710. |] |
| 2. | Murli Manohar Purohit, |] |
| | Director and shareholder |] |
| | of Petitioner No.1, |] |
| | Adult, Indian Inhabitant, |] |
| | residing at – 1/B/71, Kalpataru Gardens |] |
| | CHSL Building, 1 ABC, Off. Ashok |] |
| | Chakravati Road, Kandivali East, |] |
| | Mumbai, Maharashtra 400 101. |] |
| | |].. Petitioners |

Versus

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|----|---|---|
| 1. | State of Maharashtra |] |
| | through the Revenue and Forest |] |
| | Department, Mantralaya, |] |
| | Madam Cama Road, |] |
| | Hutatma Rajguru Square, |] |
| | Nariman Point, Mumbai – 400 032. |] |
| | |] |
| 2. | The Deputy Collector (Land Acquisition), |] |
| | having his office at 1 st Floor, |] |
| | Land Acquisition Branch, |] |
| | D.D. Collector Office, Old Customs House, |] |
| | Fort, Mumbai – 400 023. |] |
| | |] |
| 3. | The Special Land Acquisition Officer, |] |
| | Mumbai City having his office |] |
| | at Old Customs House, |] |
| | Fort, Mumbai 400 023. |] |

]
]
]
]
].. Respondents

Mr.A.A. Kumbhakoni, Advocate General, a/w. Ms. Geeta R. Shastri, Addl.G.P., Mr. Akshay Shinde, 'B' Panel Counsel, Mr. S.B. Gore, AGP for respondent Nos. 1 to 4-State.

RESERVED ON : 16TH APRIL 2019
PRONOUNCED ON : 2nd MAY 2019

1) By this petition under Article 226 of the Constitution of India, the petitioners seek a writ or direction to quash and set aside the land acquisition proceedings initiated in accordance with the notification dated 24th December 1992 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the Act, 1894), and the consequent proceedings thereunder in respect of an office premises, situated on the 3rd floor of a building known as “Reliance Centre” at Ballard Estate, Mumbai (hereinafter referred to as ‘the subject property’).

2) Though the instant litigation has a chequered history, spanning almost half a century, the background facts, essential for the determination of the present controversy, can be summarized as under :-

The petitioner No.1 is a company incorporated under the provisions of the Companies Act, 1956. It is a part of the Reliance Group of Companies. The subject property, then owned by Reliance Industries Limited, was initially requisitioned by the Controller of Accommodation under the provisions of Section (4)(a) of the Bombay Land Requisition Act, 1948, by order dated 23rd January 1970. As the subject property remained under requisition for a long period, the Reliance Industries Limited had filed Writ Petition No.1679 of 1991 questioning its legality and propriety. In the meanwhile, the State Government issued a notification under Section 4 of the Act, 1894 for acquisition of the said property. Thus, the said Writ Petition No.1679 of 1991 came to be withdrawn with liberty to challenge the acquisition proceedings. Reliance Industries Limited filed a fresh petition, bearing No. 1956 of 1994, challenging the acquisition of the subject property, which was in the nature of part of a floor of the the super structure, without acquiring

the land underneath. This Court, by a judgment and order dated 10th March 2006, quashed and set aside the acquisition proceedings on the premise that the subject property could not have been acquired without acquisition of the land.

3) The State assailed the aforesaid judgment and order. In Civil Appeal No. 1699 of 2007, by the judgment and order dated 15th September 2017, the Supreme Court was pleased to set aside the aforesaid judgment and order passed by this Court holding, *inter-alia*, that the acquisition of the subject property without acquisition of the land was legal and valid, and it was directed that the acquisition proceedings be taken to a logical end.

4) In the interregnum, the Parliament enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act, 2013'), and repealed the Act, 1984, with effect from 1st January 2014. The Deputy Collector and Land Acquisition Officer, vide a notice dated 13th December 2018 purported to be issued under Section 9 of the Act, 1894 called upon the petitioners to submit the claims to compensation in respect of the subject property.

5) The petitioners have assailed the said notice dated 13th December 2018, on the count that after the enactment of the New Act, 2013, in

accordance with the provisions contained in Section 24 of the New Act, 2013, the resort to the provisions contained in the Act, 1984 is impermissible and the notice as contemplated by Section 21 of the New Act, 2013 ought to have been given and all the provisions of the new Act, 2013 ought to have been invoked. It was further asserted that since the award has not been made within one year of the Notification, as contemplated by Section 25 of the New Act, 2013, the acquisition proceedings lapsed on this count also. By way of amendment, the petitioners have prayed for a further direction that the respondents, if they so desire, be directed to continue the acquisition proceedings in terms of the New Act, 2013.

6) We have heard Shri S.U. Kamdar, the learned Senior Counsel for the petitioners and the Shri A.A. Kumbhakoni, the learned Advocate General for the State.

7) Shri Kamdar urged that the continuation of the acquisition proceedings by resorting to the provisions contained in Section 9 of the Act, 1894 is clearly in teeth of the provisions contained in Section 24(1)(a) of the New Act, 2013. Though the acquisition proceedings, wherein an award has not yet been passed, on the date the New Act, 2013 was brought into force, can be continued, yet, all the provisions of the New Act, 2013 become applicable to such a proceedings and, consequently, the notice

under Section 21 of the New Act, 2013 calling upon the interested persons to make the claims to compensation as well as rehabilitation and resettlement is required to be issued. The learned Senior Counsel strenuously urged that the owners of the subject property cannot be deprived of the benefits under the provisions of the New Act, 2013 by continuing the acquisition proceedings under the provisions of the Act, 1894. To bolster up the aforesaid submission, the learned Senior Counsel placed a strong reliance upon two judgments of the Supreme Court; one, in the case of *Aligarh Development Authority Vs. Megh Singh and Others* ¹ and another, in the case of *Delhi Development Authority Vs. Virender Lal Bahri & Ors.* ².

8) In opposition to this, the learned Advocate General raised two preliminary objections to tenability of the petition, at this stage of acquisition proceedings. The learned Advocate General submitted that in view of the decision of the Supreme Court whereby the legality and validity of the acquisition proceedings was upheld, with a further direction to complete the acquisition proceedings as expeditiously as possible, this Court cannot entertain the plea to quash and set aside the very same acquisition proceedings. The observations of the Supreme Court in paragraph 59, under the caption 'X. Conclusion' read as under :

1 (2016) 12 SCC 504

2 Special Leave Petition (Civil) No. 37375 of 2016 decided on 27th February 2019

59 Thus, we find that the acquisition process to be legal and valid and the notifications in question are valid and let it be taken to a logical end. Since there was interim stay by the High Court and thereafter a status quo order by this Court, we direct that the acquisition be completed as expeditiously as possible. There is no merit in the prayer to drop it.

9) In view of the aforesaid direction, which, according to the learned Advocate General, is peremptory in nature, it is now not open for this Court to again examine the validity of the acquisition proceedings, urged the learned Advocate General. As a second limb of the challenge to the tenability of the petition, the learned Advocate General would urge that, since the authority has not passed an award determining the compensation, which, under the provisions of Section 24(1)(a) is required to be determined in accordance with the provisions of the New Act, 2013, the challenge to the proceedings is rather premature. It was urged that after an award is passed, the petitioners will have all the remedies open to assail the award by instituting appropriate proceedings before appropriate forum.

10) Shri Kamdar joined the issue, raised by the learned Advocate General, by canvassing a submission that the issue as regards the continuation of the acquisition proceedings under the provisions of the Land Acquisition Act, 1894 goes to the root of the validity of the acquisition proceedings and can very well form the subject matter of determination by

this Court notwithstanding the observations of the Apex Court, extracted above.

11) As the controversy revolves around the extent of the applicability of the provisions of the New Act, 2013, it may be apposite to extract the relevant part of Section 24, which reads as under :-

24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases-

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),—

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

12) Since the award under Section 11 of the Act of 1894 has yet not been made, the situation at hand is, admittedly, covered by Clause (a) of the Sub-section (1), extracted above. The learned counsel for the petitioners, laying emphasis upon the term, “*all provisions of this Act relating to the determination of compensation shall apply*”, urged with a degree of vehemence that determination of compensation envisaged by Section 27 of the New Act, 2013 is not possible unless the notice in terms

of Section 21(1) of the New Act is issued. Amplifying the submission, it was canvassed that the expression “*all the provisions of this Act relating to determination of compensation*” subsumes in its fold provisions which precede Section 24, including notice as contemplated by Section 21(1) of the New Act, 2013, and the legislative intent is not restricted to application of only the provisions relating to determination of compensation, which follow Section 24.

13) To lend support to this submission, our attention was invited to the observations of the Supreme Court in the case of ***Aligarh Development Authority*** (Supra). In the said case, a notification under Section 4 of the Act, 1894 was issued on 9th August 2004. It was followed by a declaration under Section 6 of the Act of 1894 dated 3rd August 2005. By the time, the New Act, 2013 came into force, the award under the Act of 1894 was yet not passed. The Supreme Court, after extracting the provisions of Section 24 of the New Act, 2013, expounded the import of provisions as under :-

“Section 24 :

.....

Section 24 of the 2013 Act envisages mainly two situations;

i) where the land acquisition proceedings had already been initiated under the 1894 Act but no award was passed till the date the new Act came into force.

(ii) where the Award has been passed but neither the owner has been dispossessed nor has he been paid the compensation.

Under the first, where the award had not been passed, the acquisition proceedings could continue; but the compensation will have to be determined under the scheme of 2013 Act. Under

the second category, there is a statutory lapse of the proceedings. There is also an incidental third situation, where award under the 1894 Act had already been passed prior to coming into force of the 2013 Act, but payment is yet to be made and possession is yet to be taken. In that case, the further proceedings after the award could continue under the old Act of 1894; but if either payment or possession has not taken effect in five years prior to the 2013 Act, then proceedings will lapse.

6 In the case before us, since admittedly the award has not been passed, there arises no question of lapse. The land acquisition proceedings would continue but with the rider that the award will have to be passed and compensation determined under the provisions of 2013 Act.

(Emphasis supplied)

14) Shri Kamdar submitted that the Supreme Court has ruled in clear and explicit terms that when the award had not been passed, the acquisition proceedings could continue but the compensation will have to be determined under the “**Scheme**” of the New Act, 2013. Laying stress on the words “Scheme of 2013 Act”, it was urged that Scheme of the New Act, 2013 encompasses the elements beyond mere award of compensation. Therefore, the words “*all provisions of this Act relating to the determination of compensation*” cannot be given restricted meaning. To do so, according to the learned senior counsel, would defeat the avowed object of the enactment of the New Act, 2013.

15) We find it rather difficult to accede to the broad proposition sought to be canvassed by the learned senior counsel for the petitioners. On a

plain reading and construction of Section 24 of the New Act 2013, it becomes explicitly clear that Clause (a) of Sub-section 24 addresses a situation where though proceedings for acquisition of the land under the Act, 1894 have been commenced yet, on the date of the commencement of the New Act, 2013, award has not been passed. In contrast, clause (b) deals with a situation where the proceedings initiated in the Act, 1894 have culminated in passing of the award under Section 11 of the Act, 1894. Clause (b) saves those proceedings and ordains that they shall continue under the provisions of Act, 1894, as if the said Act 1894 has not been repealed by the New Act, 2013. So far as those proceedings wherein no award under Section 11 of the Act, 1894 has been passed, clause (a) mandates that all the provisions of the New Act, 2013 relating to the determination of compensation shall apply. In other words, clause (a) mandates that the compensation has to be determined under the New Act, 2013 though the proceedings might have been initiated under the Act, 1894.

16) In the backdrop of the submissions of Shri Kamdar, the pivotal question which arises for consideration is whether the expression, “*all provisions of this Act relating to the determination of compensation shall apply*” makes applicable the provisions of the New Act, 2013 other than those relating to determination and computation of the compensation.

17) The first and foremost principle of statutory interpretation is that the intention of the legislature must be found in the words used by the legislature itself. It is also trite that if the words of a statute are clear and unambiguous, they are required to be interpreted in their natural and ordinary sense. If the words, “*all provisions of this Act relating to the determination of compensation...*” are constructed in accordance with their natural, ordinary and popular sense, they indicate in clear and unequivocal terms that the provisions of the New Act 2013 relating to determination of compensation only apply and not all the provisions of the New Act, 2013. From the text of Section 24(1)(a), it becomes crystal clear that the legislature has designedly restricted the extent of the applicability of the New Act, 2013 to the proceedings initiated under the Act, 1894, namely, the provisions relating to the determination of compensation. The applicability of the provisions of the New Act, 2013 is evidently qualified with regard to the determination of compensation.

18) Had the legislature intended to make other provisions of the New Act 2013 applicable to the acquisition proceedings, initiated under the Act, 1894, it would have used a different expression. One, the qualifying words, “relating to the determination of compensation”, would not have been used. It is well recognized principle of statutory interpretation that the legislature does not use any word as a 'surplusage'. Every word used by the

legislature is presumed to be with a purpose. While interpreting the statutory provision, no word should be rendered redundant. If the submission on behalf of the petitioners is to be accepted then it has to be assumed that the legislature has used the words, “*relating to the determination of compensation*”, as a surplusage. Such assumption is not warranted by the text or context of the New Act, 2013. Two, the legislature could have clearly and explicitly stated that all the provisions of the New Act, 2013 shall apply as if the proceeding is initiated under the New Act, 2013.

19) In this context, a useful reference can be made to a Division Bench judgment of Kerala High Court in the case of *Sajan P.M. S/o. Late Madhavan, Residing at 'Githanjali' Arunapuram P.O., Pala, Kottayam District Vs. The Land Acquisition Officer Special Tahasildar, Land Acquisition, Pala Kottayam District & Ors.*³ wherein the Kerala High Court considered the question “as to whether for preparing an award in pursuance of land acquisition proceedings initiated under the Act, 1894, the period of limitation as provided by Section 25, i.e., one year of the date of publication of the declaration, shall be applicable and award having not been declared within one year from Section 6, the entire land acquisition proceedings have to be treated as lapsed”.

3 2016 SCC OnLine Ker. 2889

20) Answering the said question in the negative, the Division Bench of the Kerala High Court, observed as under :-

“24 The declaration of the award under the old Act was also a proceeding which has to be continued even after the enactment of 2013 Act. There is no contrary intention in 2013 Act to indicate that when the award has not been declared prior to enforcement of 2013 Act, all proceedings pertaining to declaration of the award including the limitation shall be governed by the new Act.

25. As noted above, the provisions of new Act which are applicable in a case where the award has not been passed, have been consciously qualified under Section 24(1)(a) only to the extent it relates to the determination of compensation. Thus there being no other contrary intention in any of the provisions we are of the view that Section 6 of the General Clauses Act read with Section 114 of 2013 Act clearly saves the proceedings regarding preparation of the award in so far as limitation for declaring the award is concerned.”

21) Shri Kamdar, the learned senior counsel urged with tenacity that the aforesaid view of the Kerala High Court cannot be said to be a good law in view of the aforesaid pronouncement in the case of ***Aligarh Development Authority*** (Supra) wherein, it has been held that the award will have to be passed and compensation determined under the provisions of the New Act, 2013. Undoubtedly, in the case of ***Aligarh Development Authority*** (Supra), the Supreme Court has held that the land acquisition proceedings, in a case covered by clause (a) of sub-section (1) of Section 24 would continue but with a rider that the award will have to be passed and the

compensation determined under the provisions of the New Act, 2013. However, it does not necessarily imply that all the provisions of the New Act, 2013 become applicable to such a proceedings. It is pertinent to note that even in case of *Aligarh Development Authority* (Supra), the Supreme Court, while issuing operative directions, directed the competent authority to complete the acquisition proceedings by passing an award under the provisions of the New Act, 2013 by calculating the entire compensation due to the owner of the land in terms of the New Act, 2013. Evidently, the Supreme Court, in effect, directed the determination of compensation in accordance with the provisions of the New Act, 2013.

22) The matter can be looked at from another angle. The thrust of the submission on behalf of the petitioners is that the notice inviting the claims from the interested persons ought to have been in terms of Section 21 of the New Act, 2013 in contradistinction to Section 9 of the Act, 1894. If we compare and contrast the provisions of Section 9 of the Act, 1894 with the provisions of Section 21 of the New Act, 2013, it becomes abundantly clear that the New Act, 2013 prescribes that the Collector shall call upon interested persons to submit claims to rehabilitation and resettlement, in addition to the claims to compensation, which was provided for in Section 9 of the Act, 1894. From this stand point, if the legislature intended that the provisions relating to rehabilitation and resettlement shall also be made

applicable to the acquisition proceedings, covered by clause (a) of Section 24(1) of the New Act, 2013, it would have used the said expression as well in the said clause (a).

23) It is imperative to note that the one of the major shortcoming of the Act, 1894, as specifically stated in the statement of objects and reasons of the New Act, 2013, was that the old Act, 1894 did not address the issue of rehabilitation and resettlement to the affected persons and their families. The statement of objects and reasons further proclaims that the land acquisition and rehabilitation and resettlement need to be seen as two sides of the same coin and thus a single integrated law to deal with the issues of rehabilitation and resettlement has become necessary. The rehabilitation and resettlement being the thrust of the New Act, 2013, the legislature would not have left the said issue unaddressed, if it was so intended, from the ambit of clause (a) of Sub-section (1) of Section 24 of the New Act, 2013.

24) The submission on behalf of the petitioners that a notice under Section 21 of the Act shall also invite claims to rehabilitation and resettlement loses sight of the fact that the claims for rehabilitation and resettlement, to be made in pursuance of the notice under Section 21, cannot be made in the abstract. The provisions contained in Section 16, warranting preparation of rehabilitation and resettlement; review thereof under Section 17; the publication of the approved rehabilitation and

resettlement scheme under Section 18 and publication of the summary of rehabilitation and resettlement under Section 19, precede the notice under Section 21. The first proviso to sub-section 2 of Section 19 contains an interdict against making a declaration under sub-section (1) of Section 19 unless the summary of rehabilitation and resettlement scheme is published along with the said declaration. The claims to rehabilitation and resettlement are required to be made in the context of these steps and declaration by the competent authorities. Thus, the submission on behalf of the petitioners that the petitioners have a statutory right to make claims to rehabilitation and resettlement, provided a notice under Section 21 of the New Act, 2013 is issued, does no merit countenance.

25) Reliance placed by the learned counsel for the petitioners on the referral judgment of the Supreme Court in the case of *Delhi Development Authority* (Supra) does not seem to be of any assistance to the petitioners. In the said case, the Supreme Court was concerned with the question as to whether the proviso contained in Section 24 of the New Act, 2013, is a proviso to Section 24(1)(b) or it is a proviso to Section 24(2). Doubting the correctness of the earlier view recorded in the case of *Delhi Metro Rail Corporation Vs. Tarun Pal Singh* ⁴ that the proviso to Section 24 governs Section 24(2) and not sub-section 24(1)(b), the Supreme Court referred

⁴ (2018) 14 SCC 161

Delhi Metro Rail Corporation to the larger Bench, constituted for hearing afresh the case of **Indore Development Authority Vs. Shailendra (Dead) Through LRs. & Ors.**⁵ for reconsideration of the view in **Delhi Metro Rail Corporation** (Supra).

26) Evidently, the construction of Section 24(1)(a) did not directly fall for consideration in the aforesaid case. The Supreme Court was concerned with the core issue as to whether the proviso to Section 24 is a proviso to sub-section (2) or Section 24(1)(b). The observations as regards the nature and import of the clause (a) were incidental in nature. On the contrary, the following observations in paragraph 10 of the said judgment indicate that the provisions of the New Act, 2013 are applicable only to the extent of determination of compensation. They read as under :-

“10 Firstly, the scheme of Section 24(1) is to provide enhanced compensation under the 2013 Act even in cases where a Section 4 notification has been made under a repealed statute, namely, the Land Acquisition Act, 1894, but where no award has been pronounced on 01.01.2014, when the 2013 Act comes into force. This is clear from a reading of Section 24(1)(a).”

(Emphasis supplied)

27) In the facts of the case, the fact that the impugned notice is purported to be issued under Section 9 of the Act, 1894, is not of

⁵ (2018) 3 SCC 412

determinative significance. It is well recognized that a mis-description of a particular statutory provision does not vitiate the process. We find substance in the submission of the learned Advocate General that the petitioners may submit their claims before the competent authority and if they are not satisfied with the determination of the compensation, by way of an award, which may be ultimately passed by the competent authority, the petitioners can contest the said determination on all the grounds which are permissible under the law. The learned Advocate General further fairly submitted that the competent authority would determine the compensation in accordance with the provisions contained in the New Act, 2013 relating to the determination of compensation.

28) We are of the view that, at this stage of proceedings, the apprehension that the competent authority would not determine the compensation in accordance with the provisions of the New Act, 2013 is unfounded. Resultantly, we are persuaded to hold that, at this stage of proceedings, there is no justification for exercising the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India to interject the acquisition proceedings, which has been directed to be expeditiously concluded by the Apex Court.

29) The conspectus of the aforesaid discussion is that the petition deserves to be dismissed. Hence, we pass the following order :-

The petition stands dismissed.

However, in the circumstances, there shall be no order as to costs.

Rule discharged.

[N.J. JAMADAR, J.]

[R. M. BORDE]