

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

		CWP-19458-2014
Krishan		Petitioner
	Versus	
State of Haryana and others		Respondents
		CWP-22838-2014
Umesh Poddar and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-5433-2015 (O&M)
Rohtas and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-24962-2016 (O&M)
Rajesh Kumar		Petitioner
	Versus	
State of Haryana and others		Respondents
		CWP-11815-2017
Dhan Singh and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-7932-2016
Preet Singh and others		Petitioners
	Versus	
State of Haryana and others		Respondents

		CWP-2352-2017
Murti Devi		Petitioner
	Versus	
State of Haryana and others		Respondents
		CWP-2420-2017
Dheer Singh and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-2472-2017
Jai Bhagwan and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-4211-2017
Daya Nand		Petitioner
	Versus	
State of Haryana and others		Respondents
		CWP-5536-2017
Suresh Kumar and others		Petitioners
	Versus	
State of Haryana and others		Respondents
		CWP-867-2017
Ram Dass		Petitioner
	Versus	
State of Haryana and others		Respondents

CWP-25920-2016

Rajender SinghPetitioner

Versus

State of Haryana and othersRespondents

CWP-26331-2016

Ajit SinghPetitioner

Versus

State of Haryana and othersRespondents

CWP-2058-2017

Ajit SinghPetitioner

Versus

State of Haryana and othersRespondents

CWP-7648-2017

M/s Coral Chemical Pvt. Ltd.Petitioner

Versus

State of Haryana and othersRespondents

CWP-7649-2017

Ravinder Kumar and othersPetitioners

Versus

State of Haryana and othersRespondents

CWP-798-2017

Mahender SinghPetitioner

Versus

State of Haryana and othersRespondents

CWP-5156-2017

Sanjay Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

Date of decision : 01.12.2020

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr. Naresh Kaushik, Advocate, for the petitioner
in CWP-19458-2014, CWP-7648-2017, CWP-7649-2017 and
CWP-5156-2017.
Mr. Sunish Bindlish and Mr. Naman, Advocates, for
Mr. Yogesh Kumar Dahiya, Advocate, for the petitioners
in CWP-22838-2014.
Mr. S.P. Khatri and Mr. Anil Dutt, Advocates, for the petitioners
in CWP-5433-2015, CWP-2352-2017, CWP-2420-2017,
CWP-2472-2017, CWP-4211-2017, CWP-5536-2017,
CWP-867-2017 and CWP-2058-2017.
Mr. Sunish Bindlish, Advocate, for the petitioner
in CWP-24962-2016.
Mr. Vikram Punia, Advocate, for the petitioners
in CWP-11815-2017, CWP-7932-2016 and CWP-26331-2016.
Mr. S.K. Hooda, Advocate, for the petitioner
in CWP-25920-2016 and CWP-798-2017.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

(The aforesaid presence is being recorded through video conferencing since the
proceedings are being conducted in virtual Court).

RAVI SHANKER JHA, CHIEF JUSTICE

1. The legal question canvassed in the present batch of 19 writ
petitions, arising out of same acquisition proceedings, is whether the

acquisition proceedings have lapsed by the operation of deeming fiction of law as envisaged in section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(herein after referred as Act of 2013), on the fulfillment of two conditions i.e. non taking of possession and non payment of compensation. Section 24(2) of the Act of 2013 has been the matter of discussion as well as judicial scrutiny since the enactment of the Act of 2013 and various judicial pronouncements interpreting the section 24(2) of the Act of 2013 has seen the light of the day. Despite being so, it had remained shrouded in the mystery for long until the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India in ***Indore Development Authority and others v. Manoharlal and others AIR 2020 SC 1496*** has finally wind down the controversy by giving an authoritative pronouncement as regards the applicability/ interpretation of section 24(2) of the Act of 2013.

2. The language of Section 24(2) of the Act of 2013 talks much about the intent and object of the Legislature in envisaging a deemed fiction of law in the Act of 2013 to cater the inaction of the State in paying the compensation and taking the possession of the land in the cases where award under section 11 of the Land Acquisition Act, 1894 was announced 5 years or more prior to the enactment of the Act of 2013, however the State failed to take possession or pay the compensation to the landowners. The reproduction of the provision would further make it clear:-

“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,—

(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.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said 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 this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

3. From the perusal of the aforesaid it transpires that though the object is clear, however the whole confusion arose qua the interpretation of the words ‘physical possession’ and ‘paid’ used in the Section 24(2) of the Act of 2013. The lack of clarity was due to the fact that in Land Acquisition

Act, 1894 the word possession was never preceded by the word 'physical' and accordingly the same was inferred to mean the actual possession of the land and structures, if any existing on the land. Further as far as the word 'paid' in respect of compensation was concerned, the same came to interpreted to mean the actual payment or deposit in the Reference Court and the payment deposited in the Treasury was found to be insufficient fulfillment of the obligation of the State to pay the compensation. ***(Pune Municipal Corporation and Anr v. Harakchand Misrimal Solanki and others 2014(3) SCC 183.***

4. In addition to the aforesaid, one of the imperative question that required adjudication was whether while determining the five years period prior to the date of commencement of the Act of 2013, the period during which the interim order remained in operation has to be excluded or not. Though the Hon'ble Supreme Court in Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others, (2015) 3 SCC 353 hold that such period is not required to be excluded, however the ratio laid down came to be doubted in Yogesh Neema & ors. v. State of Madhya Pradesh reported as (2016)6 SCC 387 and accordingly the matter was referred to the larger bench. Similarly, other references were also sent framing different questions of law to be decided by the Larger Bench. The questions sent for reference to Larger Bench are summarized herein below:

"1. What is the meaning of the expression paid'/tender' in Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013') and Section 31 of the

Land Acquisition Act, LA (Act of 1894')? Whether non-deposit of compensation in court under section 31(2) of the Act of 1894 results into lapse of acquisition under section 24(2) of the Act of 2013. What are the consequences of non- deposit in Court especially when compensation has been tendered and refused under section 31(1) of the Act of 1894 and section 24(2) of the Act of 2013? Whether such persons after refusal can take advantage of their wrong/conduct?

2. Whether the word 'or' should be read as conjunctive or disjunctive in Section 24(2) of the Act of 2013?

3. What is the true effect of the proviso, does it form part of sub Section (2) or main Section 24 of the Act of 2013?

4. What is mode of taking possession under the Land Acquisition Act and true meaning of expression the physical possession of the land has not been taken occurring in Section 24(2) of the Act of 2013?

5. Whether the period covered by an interim order of a Court concerning land acquisition proceedings ought to be excluded for the purpose of applicability of Section 24(2) of the Act of 2013?

6. Whether Section 24 of the Act of 2013 revives barred and stale claims? In addition, question of per incuriam and other incidental questions also to be gone into..."

5. The Hon'ble Supreme Court has bequeathed meticulous contemplation on each and every question and has set at rest the entire

gamut surrounding section 24(2) of the Act of 2013. This Court has discussed the judgment of **Indore Development Authority (Supra)** while adjudicating a similar batch of petitions with the lead case being **CWP no. 8878 of 2018 titled as Sehdev Singh and others v. State of Haryana and others** and has discussed minutely, the submissions made by the landowners and the acquiring authorities before the Hon'ble Supreme Court and the observations made by the Hon'ble Supreme Court while discussing the entire law which was ultimately concluded in the penultimate paragraph of the judgment i.e. para 363. This Court in Sehdev Singh's case has culled out the following principles as laid down in Indore Development Authority (Supra) giving a clear and distinct insight into the law laid down by the Hon'ble Supreme Court of India and feel it appropriate to refer here the same for the disposal of the cases listed today for hearing:-

'....32. Having bestowed our thoughtful consideration and after having gone through the judgments of the Hon'ble Supreme Court, it is unambiguously clear that each and every word and each and every line from section 24 of the Act of 2013 has been interpreted by the Hon'ble Supreme Court of India. This has been crystallized that all the three limbs of section 24 operates in three different fields. The principles laid down by Hon'ble Court are encapsulated herein below:-

(a) In all those cases wherein the acquisition process had been initiated but the award has not been announced under section 11 of the Act of 1894, on the date of commencement of the Act of 2013 i.e. 01.01.2014, there is no lapse of proceedings and the same will continue, however, with the rider that the compensation has to be determined under the provisions of Act of 2013.(para 363 (1))

(b) All those cases wherein the award under section 11 of the Act of 1894 has been announced prior to commencement of the Act of 2013, the provisions of the Act of 2013 would have no bearing or application and the proceedings will continue in respect of those cases, as if, the Act of 1894 has not been repealed.

(c) The word 'or' used in between the both the contingencies of section 24(2) of the Act of 2013 is to be read as 'nor' or as 'and' which means that to seek lapsing of the acquisition proceedings both the contingencies must be fulfilled. Meaning thereby, that if the possession had been taken but the compensation was not received, there would be no lapse. Similarly, if compensation has been accepted but the possession has not been taken, there would be no lapsing. (reference to para 99 and 363(2) of the judgment in Indore Development Authority (supra)).

(d) As far as the aspect of compensation for the land acquired is concerned, the Hon'ble Supreme Court of India has categorically observed that 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. What is required to be proved is that the compensation amount was tendered which has been explained in para 203 that the tendering of the amount would mean that the amount is made available to the landowner and that would be a discharge of the obligation to make the payment and in that event such a person cannot be penalized for the default in making the payment. While referring to section 31(1), 31(2), 34 of the Act of 1894 and comparing them with the para materia provisions i.e. section 71 and 80 of the Act of 2013, the Hon'ble Apex Court has clarified that the only consequence of non-payment of compensation is to make the payment of interest as per section 34 of the Act of 1894. Even the Hon'ble SC has further clarified that once the payment of compensation has been offered/tendered under section 31(1), the acquiring authority cannot be penalized for non-payment as the amount has remain unpaid due to refusal to accept by the landowner. To clarify it further, the Hon'ble SC has further observed that if a landowner has filed the reference for higher compensation he cannot claim that he was not paid the amount. (para 224 of the judgment)

(e) While reading the proviso to section be part of section 24(2) of the Act of 2013, the Hon'ble Supreme Court has clarified that in case, the offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for 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. Regarding the deposit, it has been clarified in para 242 of the judgment that for the higher compensation to follow, the money should not have been deposited with the Land Acquisition Collector or in the treasury

or in the Court with respect to majority of land holdings, meaning thereby if it was deposited in any of the three modes with respect to majority of holdings, the higher compensation will not follow, but interest under section 34 of the Act of 1894 would be the consequence.

(f) As regards the mode of taking possession, the Hon'ble Supreme Court had clarified that drawing of inquest report/memorandum would mean that physical possession has been taken. The law with regard to vesting of land has once again be reiterated to hold that once the possession has been taken under section 16 of the Act of 1894, the land vest in the State and there cannot be any divesting or lapsing. (para 244, 245 and 363(7) of the judgment)

(g) While computing the gap period of five years between the date of award and commencement of the Act of 2013, any interim order subsisting is to be excluded which means that after excluding the interim order, the pre-requisite gap period of 5 years is not there, the provisions of section 24(2) cannot be invoked. (para 363(4) of the judgment)

(h) The Hon'ble Court has further clarified that if the acquisition of land had earlier been challenged and the acquisition was upheld, which means the proceeding stood concluded, the umbrella protection of section 24(2) of the Act of 2013 cannot be invoke as it does not revive stale and time barred claims. (Para 359 and 363(9) of the judgment).

(i) In para 337, the Hon'ble Court has made it clear that the provision of section 24(2) of the Act of 2013 is meant to be invoked by the beneficiaries i.e. landowners who were recorded so at the time of issuance of notification under section 4 of the Act of 1894. Any subsequent purchaser, POA holder or otherwise, cannot invoke the provisions of section 24(2) of the Act of 2013....'

6. The aforesaid principles read in the light of the principles enshrined in the Indore Development Authority (supra) will be beacon light for us to dispose of the present bunch of writ petitions. For the sake of brevity the general facts pertaining to the acquisition proceedings are

drawn from CWP No. 19458 of 2014 and subsequently the individual facts of the cases are discussed in the proceeding paragraphs.

7. The land in these writ petitions was sought to be acquired by State of Haryana by issuing notification dated 17.11.2005 under Section 4 of the Land Acquisition Act, 1894 thereby declaring its intention for acquiring the land measuring 2068.52 acres for the public purpose namely, for the development of Sector 65 to 68 (Rajiv Gandhi Education City), Sonapat by Haryana Urban Development Authority. Thereafter, the State Government notified 2026.87 acres of land for acquisition by issuing declaration dated 07.02.2006 issued under Section 6 of the Land Acquisition Act, 1894. Subsequently, the award came to be announced on 02.03.2006 and the possession of the acquired land was handed over to Estate Officer, HUDA on the same day vide Rapat No. 566 dated 02.03.2006 of Village Badhkhalsa, Rapat No. 564 dated 02.03.2006 of Village Badhmali, Rapat No. 565 dated 02.03.2006 of Village Ferozepur Khadar, Rapat No. 275 dated 02.03.2006 of Village Jhakholi, Rapat no. 71 dated 02.03.2006 of Village Asawarpur, Rapat No. 69 dated 02.03.2006 of Village Sewli, Rapat No. 70 dated 02.03.2006 of Village Patla, Rapat No. 552 dated 02.03.2006 of Village Bahalgarh and Rapat No. 393 dated 02.03.2006 of Village Khewra. The reply filed by the respondents, inter alia states that out of the total compensation for the awarded land i.e. Rs. 3,34,90,10,540/-, an amount of Rs. 2,60,58,18,572/- already stands disbursed to the land owners which constitutes 77.80% of the total award amount and the balance amount is lying deposited in the account of LAC.

CWP No. 19458 of 2014 – Krishan v. State of Haryana and others

8. In C.W.P. no. 19458 of 2014 the land of the petitioner measuring 7 kanal 4 marla falling in Khasra No. 35//6 of Village Patla was acquired vide aforesaid notifications. The petitioner is seeking lapsing of the acquisition proceedings under section 24(2) of the Act of 2013 on the ground that neither the possession of the land has been taken nor does the compensation has been paid.

9. As has also been observed in the aforesaid paragraph no. 2 and is also evident from the written statement filed by the respondents, the possession of the land of the petitioner was taken vide Rapat No. 70 dated 02.03.2006, which the Hon'ble Court has held to be the valid mode of taking possession and thus, thereafter vests absolutely in the State and any person retaining the possession thereafter, does it in the form of trespasser only.

10. Further as far as the amount of compensation is concerned, from the written statement it transpires that since the land in question was Panchayat deh at the time of Section 4, the compensation amount of this land has been deposited in the Court of ADJ, Sonapat under Section 30 of the Act of 1894 vide Cheque No. 064778 dated 19.09.2013.

11. In the light of the aforementioned facts, it is apparent that the due possession of the land of the petitioner stands taken by recording Rapat Rojnamcha and the amount of compensation has been deposited in the Court of ADJ, Sonapat, therefore, in view of the judgment passed in Indore Development Authority (supra) especially para no. 363(5) and 363(7), none

of the contingencies as prescribed in Section 24 (2) of the Act of 2013 necessary for declaring the acquisition proceedings to have been lapsed, are met and therefore the relief prayed for cannot be granted to the petitioner and thus, the petition is dismissed.

CWP No. 22838 of 2014 – Umesh Poddar and others v. State of Haryana and others

12. In C.W.P. No. 22838 of 2014 the petitioners are claiming lapsing of acquisition qua their land measuring 40 kanal 17 marla falling in revenue estate of Village Badhkhalsa on the ground that neither the possession of the land was taken nor the compensation was paid. The respondents have filed the reply controverting the contentions of the petitioners and has stated that the possession of the land of the petitioners was taken vide Rapat No. 566 dated 02.03.2006 and mutation qua the same stands recorded in the revenue records as well. Therefore, the possession of the land duly stands taken in terms of the judgment in ***Indore Development Authority (Supra)***, wherein it has been so observed that the recording the panchnama is valid mode for taking the possession and accordingly once the possession stands taken, the land vests in the State.

13. Further as far as the amount of compensation is concerned, it was tendered, however, was not received by the petitioner and is now lying in the account of Land Acquisition Collector as transpires from the perusal of reply filed by the respondents in this behalf. The petitioners have also filed reference under Section 18 of the Act of 1894 and in accordance with Para 224 of the judgment of Indore Development Authority (supra), any

land owner who had filed reference under Section 18 for the enhancement of compensation cannot claim that compensation was not paid to him. To quote para 224:

'...224. Thus, in our opinion, the word "paid" used in Section 24(2) does not include within its meaning the word "deposited", which has been used in the proviso to Section 24(2). Section 31 of the Act of 1894, deals with the deposit as envisaged in Section 31(2) on being 'prevented' from making the payment even if the amount has been deposited in the treasury under the Rules framed under Section 55 or under the Standing Orders, that would carry the interest as envisaged under Section 34, but acquisition would not lapse on such deposit being made in the treasury. In case amount has been tendered and the landowner has refused to receive it, it cannot be said that the liability arising from non-payment of the amount is that of lapse of acquisition. Interest would follow in such a case also due to non-deposit of the amount. Equally, when the landowner does not accept the amount, but seeks a reference for higher compensation, there can be no question of such individual stating that he was not paid the amount (he was determined to be entitled to by the collector). In such case, the landowner would be entitled to the compensation determined by the Reference court....'

14. Since the possession of the land stands taken and further the petitioner filed the reference under section 18 of the Act of 1894 seeking higher rate of compensation, meaning thereby the compensation was duly tendered, none of the contingencies required for seeking lapsing of the acquisition proceedings stands fulfilled in view of para no. 363(5) and 363(7) of the judgment passed in Indore Development Authority (supra), and therefore accordingly the writ petition seeking lapsing of the proceedings stands dismissed.

CWP No. 5433 of 2015 – Rohtas etc v. State of Haryana and others

15. In C.W.P. no. 5433 of 2015 the petitioners are claiming the lapse of acquisition proceedings qua their land measuring 16 kanal 19 marla

situated in revenue estate of Village Asawarpur Tehsil & District Sonapat vide the aforementioned notifications on the ground that neither the compensation has been paid to the petitioners nor physical possession of the land has been taken by the State.

16. The respondents have filed the reply controverting the contentions raised by the petitioners, the perusal of which shows that the possession of land of the petitioner was taken by recording the panchnama/rapat rojnamcha No. 71 dated 02.03.2006. Further the compensation amount has been tendered by the LAC to the petitioners, however, the same has not been received by the petitioners as yet and further there is dispute regarding the ownership/title on claimed land qua which the civil suit is pending in the Court of Ld. ADJ, Sonapat and the payment regarding the disputed part has been deposited in the Court vide Cheque No. 4994664 dated 09.06.2008 by the Land Acquisition Collector, Rohtak.

17. In view of the aforementioned facts, it is clear that the possession of the land stands duly taken and the compensation qua the claimed also stands tendered, therefore, none of the contingencies prescribed in section 24(2) of the Act of 2013 required for declaring the acquisition proceedings to have been lapsed are fulfilled as provided in Indore Development Authority (supra) in para no. 363(5) and 363(7), and in the light thereof no relief as prayed for in the petition can be granted to the petitioner and thus, the present petition is hereby dismissed.

CWP No. 24962 of 2016 - Rajesh Kumar v. State of Haryana and others

18. In C.W.P. No. 24962 of 2016, the petitioner has claimed the lapse of acquisition qua his land measuring 7 kanal 18 marla falling in Khasra no. 13//21, 20//5/1 situated in Village Badhkhalsa, District Sonapat under Section 24 (2) of the Act of 2013 on the ground that neither the compensation to the petitioner has been paid nor the physical possession of the land has been taken.

19. The respondents have filed the reply controverting the contention of the petitioner with regard to the status of possession and the compensation. It has been stated that the possession of the land stands taken vide rapat no. 566 dated 02.03.2006 and as far as the amount of compensation due to the petitioner i.e. Rs. 16,47,299/- is concerned, the same is lying deposited in the account of Land Acquisition Collector and has not been collected by the petitioner. Further the petitioner had also filed reference under Section 18 of the Land Acquisition Act, 1894.

20. In view of the principles enunciated in the Indore Development Authority (Supra), the possession of the land stands duly taken by way of rapat entry and therefore the land stands vested in the State thereafter, further the compensation amount has also been tendered and is lying deposited in the account of LAC. Therefore, the case at hand is squarely covered by the directions in para no. 363(5) and 363(7) of the judgment and accordingly none of the two conditions required for claiming the lapsing of acquisition proceedings are met and thus, the present petition is accordingly dismissed.

CWP No. 11815 of 2017 -Dhan Singh and others v. State of Haryana and others

21. In C.W.P. No. 11815 of 2017, the petitioners have prayed to quash the speaking order dated 28.03.2017 vide which the claim of the petitioners under Section 24 (2) was rejected and has further sought the lapsing of aforementioned acquisition proceedings in view of the fact that they are still in physical possession of the land in question and neither the compensation qua their land was paid to them or was deposited in the court. Controverting the averments made by the petitioners.

22. The respondents in their reply have categorically stated that the possession of the land of the petitioners was taken vide Rapat No. 566 dated 02.03.2006 and as far as the amount of compensation is concerned i.e. Rs. 27,42,023/- is lying deposited in the account of LAC and the compensation amount was duly tendered.

23. The Hon'ble Court in Indore Development Authority (supra) has held that for seeking lapsing of the acquisition proceedings both conditions prescribed in section 24(2) of the Act of 2013 should be fulfilled i.e. neither the possession should have been taken nor the compensation must have been paid. In the present matter, the possession stands duly taken in view of para 363(7) of the judgment and the compensation also stands tendered in view of para 363 (5) of the judgment, hence none of the contingencies required for declaring the acquisition proceedings to have been lapsed are fulfilled and thus, the present petition seeking lapsing of acquisition proceedings is hereby dismissed.

CWP No. 7932 of 2016 – Preet Singh and other v. State of Haryana and others

24. In C.W.P. No. 7932 of 2016, the petitioners are claiming lapsing of the acquisition proceedings qua their land measuring 30 kanal comprised in Khasra No. 13//6/2, 14//9/3, 10, 14//1/2, 2, 9/1/1 situated in revenue estate of Village Badhkhalsa Tehsil and District Sonapat, on the ground that neither the compensation was paid to the petitioners nor the physical possession of the land has been taken by the State.

25. It is relevant to mention that the petitioners have also challenged the speaking order rejecting the claim of the petitioners under Section 24 (2) of the Act of 2013. The perusal of the speaking order and the reply filed on behalf of respondent nos. 1 & 2, shows that the possession of the land of the petitioner was duly taken by recording panchnama in the form of Rapat No. 566 dated 02.03.2006 and in view of the decision in Indore Development Authority (Supra) the due possession of the land stands taken by way of recording the panchnama i.e. the rapat entry and the land thereafter thus vests in the State absolutely free from all encumbrances.

26. Further it has been stated that the land of the petitioners affects the development work of hostel part and Plot No. 40 as per the layout plan of the concerned sector and as far as the status of compensation is concerned, the same was tendered by the LAC to the petitioner, however, the compensation has not been collected by the petitioners till date and is lying deposited in the account of LAC. It is further pertinent to mention here

that the petitioners though did not filed any reference under Section 18 of the Land Acquisition Act, 1894, however, he filed the application for redetermination of compensation under Section 28 (A) of the Act of 1894, which was allowed, however, the amount thereof, has not been lifted by the petitioners.

27. The aforesaid facts makes it clear that the possession already stands taken and the compensation stands duly tendered, more so in view of the fact that the petitioner had filed the application for redetermination of compensation under section 28A of the Act of 1894, therefore the case at hand is squarely covered by the decision of the Hon'ble Court in Indore Development Authority (supra) especially para 363(5) and 363(7) of the judgment and therefore in view of the same, none of the conditions prescribed in section 24(2) of the Act of 2013 is fulfilled and thus, is dismissed.

CWP No. 2352 of 2017 – Murti Devi v. State of Haryana and others

28. In C.W.P.. No. 2352 of 2017, the petitioners in the present petition are seeking lapse of acquisition proceedings qua their land falling in Killa No. 35//21 in the revenue estate of Village Asawarpur Tehsil Rai District Sonapat. The petitioners have averred in the petition that they have constructed eight rooms, tubewell, boundary wall and a garden in Killa No. 35//21 and with regard to the same they have placed reliance on the report given by Naib Tehsildar, Sonapat.

29. The petitioners have very candidly admitted in the petition that though the initial compensation amount has not been paid, however they have received the enhanced compensation and are ready to deposit the same back. In the present case as has been apprised by the Ld. State Counsel that the possession of the land was taken by recording Rapat Roznamcha no. 71 dated 02.03.2006 and therefore, the valid possession stands taken by the State.

30. It is further important to note here that the Hon'ble Supreme Court in para 224 of the judgment in Indore Development Authority (Supra) has categorically held that the landowners who have filed reference under section 18 of the Act of 1894, cannot take the plea that the compensation was not paid or offered to them. Since in the present case it is the admitted fact on behalf of the petitioner that the enhanced compensation has already been received by them and are ready to deposit back same, it is clear that the compensation was duly tendered.

31. Therefore, in the light of the aforesaid discussion, it is crystal clear that both the possession of the land stands taken by the State and the compensation stands paid to the land owner and in view of the same none of the contingencies as provided in section 24(2) of the Act of 2013, necessary for declaring the acquisition proceedings to have been lapsed are fulfilled, consequent to which the present petition is hereby dismissed.

CWP No. 2420 of 2017 – Dheer Singh v. State of Haryana and others

32. In CWP no. 2420 of 2017, the petitioners are seeking lapsing of the acquisition proceedings qua their land situated in the revenue estate of

Village Sewli, District Sonapat under section 24(2) of the Act of 2013 on the ground that they are in possession of the land and that the collector award amount has not been paid to them.

33. The petitioners are claiming to be in the cultivating possession of the land in question. In this regard as has been noticed herein above and has been apprised by the Ld. Counsel representing State of Haryana, that the possession of the land of Village Sewli was taken by recording rapat no. 69 dated 02.03.2006 and as far as the amount of compensation is concerned, same is lying deposited in the account of LAC.

34. Since possession of the land stands duly taken by recording the rapat Roznamcha and that the compensation amount was also tendered and is lying deposited in the account of LAC, therefore in view of para 363(5) and 363(7) of the judgment, none of the contingencies mentioned in section 24(2) of the Act of 2013 for declaring the acquisition proceedings to have been lapsed are fulfilled and the same are thus hereby dismissed.

CWP No. 2472 of 2017 – Jai Bhagwan and others v. State of Haryana and others

35. In CWP no. 2472 of 2017, the petitioners are claiming lapse of the acquisition proceedings qua their land measuring 1 kanal 13 marla situated in Village Sewli, Tehsil Rai, District Sonapat, wherein as per the petitioners they are in cultivating possession and have planted wheat crops.

36. It is their case that after the announcement of award the possession of the land has not been taken and even the compensation has not been paid to the petitioners in respect of their acquired land. The

respondents have filed the reply controverting the contentions thereby, and has averred that the possession of the land of the petitioners was taken vide rapat no. 69 dated 02.03.2006 and the same was handed over to HUDA. As far as the compensation amount is concerned, it has been averred that the compensation is lying in the account of LAC and has not been received by the petitioners.

37. In view of the categorical stand of the Respondent - State that the possession of the land was taken by recording the rapat entry, which has also been held by the Hon'ble Supreme Court as a valid mode of taking possession of the land acquired and further that the compensation already stands deposited in LAC Account, therefore as per para 363(5) and 363(7) of the judgment in Indore Development Authority (Supra), none of the contingencies mentioned in section 24(2) of the Act of 2013 necessary for seeking lapsing of acquisition are fulfilled and thus, the petition is hereby dismissed.

CWP No. 4211 of 2017 – Daya Nand v. State of Haryana and another

38. In CWP no. 4211 of 2017 the petitioner is claiming lapsing of the acquisition proceedings qua his land measuring 10 marla comprising in Khasra no. 36//25/2 (4-0) situated in the Village Asawarpur District Sonapat. It is the case of the petitioner that he has constructed a house having four rooms, varanda, boundary wall and upstairs and is residing therein and he has been residing therein and has not received the collector amount of compensation. The only prayer in the present petition is with

regard to the lapsing of acquisition proceedings under section 24(2) of the Act of 2013.

39. The possession of the land was taken by recording panchnama in the form of rapat no. 71 dated 02.03.2006 and as far as the amount of compensation is concerned, the same was tendered and is lying deposited in the account of LAC, however, was not received by the petitioner. In view of the principle enunciated in para 363(5) and 363(7) of the judgment in Indore Development Authority (supra), the compensation stands tendered and the possession has been duly taken, in effect of which the land is vested in the State and therefore, none of the contingencies prescribed in Section 24(2) of the Act of 2013 is fulfilled, therefore no lapsing of acquisition can be sought and thus the petition stands dismissed.

CWP No. 5536 of 2017 – Suresh Kumar and others v. State of Haryana and others

40. In CWP no. 5536 of 2017, the petitioners are seeking lapsing of the acquisition proceedings qua their land falling in Khasra no. 73// 24/1 (5-2), 24//2(1-11), 25//2 (7-19), 80/1 (8-0), 81//5/2 (7-18), 6/2(5-16) to the extent of 3/4th share situated in Village Sewli District Sonapat.

41. The lapsing is being sought on the grounds that neither the possession of the land has been taken nor does the amount of compensation has been paid or has been deposited with Reference Court. Controverting the contentions of the petitioners, the Ld. Additional Advocate General appearing on behalf of State of Haryana has submitted that the possession of the land was taken by recording rapat entry no. 69 dated 02.03.2006 and

apprising about the status of compensation, he has apprised that the majority of the award amount has been disbursed and the rest of the amount including that of the petitioner is lying deposited with the LAC.

42. The Apex Court in para 363(5) and 363(7) as has been reproduced above has categorically held that the word 'paid' occurring in section 24(2) of the Act of 2013 would mean that the compensation has been tendered and that the panchnama is the valid mode of taking possession, in view thereof none of the contingencies mentioned in section 24(2) of the Act of 2013 is fulfilled and therefore no relief declaring the acquisition proceedings as lapsed can be granted to the petitioner, accordingly the present writ petition is dismissed.

CWP No. 867 of 2017 – Ram Kumar and others v. State of Haryana and others

43. In CWP no. 867 of 2017, the petitioner is seeking lapsing of the acquisition proceedings qua the land measuring 3 kanal 1 marla out of the land comprised in Killa no. 55//5 (7-8) situated in Village Asawarpur, District Sonapat, on the ground that they are in the physical possession of the land and no compensation has either been paid to them or has been deposited in the reference court under section 31.

44. As regards the status of possession is concerned, it has been apprised by Mr. Mittal that the same stands taken by recording the rapat entry no. 71 dated 02.03.2006, which has been held to be the valid mode of taking possession and once the rapat entry is recorded, the possession of the land is taken and the land thereafter vests in the State. The reference in

this regard is made to para 363(7) of the judgment in Indore Development Authority (Supra).

45. Further, as also been noted above that the majority of the compensation of the acquired land under the aforesaid notifications stands disbursed, meaning thereby that the amount of award was tendered and the rest of the amount is lying deposited with LAC, and accordingly in view of para 363(5) the obligation of the State to pay the compensation stands fulfilled.

46. Since in view of the above none of the contingencies mentioned in section 24(2) of the Act of 2013 for declaring the acquisition proceedings to have been lapsed, are fulfilled, therefore the relied prayed for in the present petition cannot be granted and the same is hereby dismissed.

CWP No. 25920 of 2016 –Rajender Singh v. State of Haryana and others

47. In CWP no. 25920 of 2016, the petitioner is seeking lapsing of the acquisition proceedings qua the land the details of which are given in para no. 2 of the petition situated in the revenue estate of Village Badh Khalsa, District Sonapat; on the ground that the physical possession of the land has not been taken.

48. It is the admitted case of the petitioner that he had earlier challenged the acquisition proceedings by filing CWP no. 3203 of 2006 and the same was dismissed. The SLP bearing SLP (C) no. 22858 of 2007 challenging the order passed by this Court also stands dismissed vide order dated 10.12.2007, meaning thereby the acquisition proceedings qua the land of the petitioner has attained finality up till the Hon'ble Supreme Court

of India. The Hon'ble Supreme Court has clarified this aspect in the Indore Development Authority (Supra) that the concluded cases cannot be re-opened by claiming lapsing of the acquisition proceedings. This has been so observed in para 363(9) of the judgment and also in para 359, which is reproduced herein below:

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....

49. Therefore in view of the above, the petitioner cannot seek lapsing of acquisition proceedings, once it has been upheld in earlier round of litigation. Moreover, the petitioner has also admitted that he has received the compensation amount vide cheque dated 05.08.2013 and had earlier received the compensation for structure vide cheque dated 14.09.2010.

50. The Ld. State Counsel has also apprised this Court of the fact that the possession of the land already stands taken by recording rapat no 566 dated 02.03.2006 and thus the acquisition proceedings stands concluded in all aspects and accordingly none of the condition mentioned in section 24(2) of the Act of 2013 are fulfilled and thus no declaration to the effect that the acquisition proceedings have been lapsed can be given,

especially in view of observations made in para 363(5), 363(7) and 363(9) of the judgment in Indore Development Authority (supra).

CWP No. 26331 of 2016 – Ajit Singh v. State of Haryana and others

51. In CWP no. 26331 of 2016, the petitioner is claiming lapsing of the acquisition proceedings qua the land measuring 1 kanal in Killa no. 21/3 situated in Village Badh Khalsa, Tehsil and District Sonapat on the ground that the petitioner is in the physical possession of the land in question.

52. The respondent State has filed the reply controverting the averments made in the petition and has categorically stated that the possession of the land was taken by recording rapat entry no. 566 dated 02.03.2006 and the compensation of the land has already been paid to the petitioner vide cheque dated 10.04.2008 and further the petitioner has also filed the reference under section 18 of the Act of 1894 for enhanced compensation.

53. In the said facts and circumstances, there remains no doubt that the possession of the land stands duly taken and the amount of compensation has also been paid and therefore no ground is made out for declaring the acquisition proceedings to have lapsed in view of the observations made in para 363(5) and 363 (7) of the judgment in Indore Development Authority (Supra) and thus, the petition is hereby dismissed.

CWP No. 2058 of 2016

54. In CWP no. 2058 of 2016, the petitioner is claiming lapsing of the acquisition proceedings qua land measuring 48//20 (3K-17M) situated

in Village Sewli, Tehsil Rai and District Sonapat on the ground that the petitioner is still in the physical possession of the land and that neither the collector amount of compensation has been paid to the petitioner nor it has been deposited in the reference Court.

55. On the other hand the stand of the respondent State is that the possession of the land was taken by recording rapat entry no. 69 dated 02.03.2006 and the compensation amount though was tendered and the majority of the compensation has already been disbursed, the petitioners have not received the compensation amount which is lying deposited in the account maintained by LAC.

56. Weighing the facts and circumstances against the touchstone of the principles enunciated in para 363 of Indore development Authority (Supra) none of the grounds mentioned in section 24(2) of the Act of 2013 are fulfilled as the possession stands duly taken by recording the rapat entry and further the compensation is lying deposited in the account of LAC. In view of the same, the present petition is hereby dismissed.

CWP No. 7648 of 2017 – M/s Coral Chemical Pvt. Limited Vs. State of Haryana and others

57. In CWP no. 7648 of 2017, the petitioner is seeking lapsing of the acquisition proceedings under section 24(2) of the Act of 2013 qua the land measuring 50 Kanal 4 marlas situated in Village Ferozepur Khadar, District Sonapat on the ground that neither the possession of the land has been taken nor the compensation has been paid.

58. It is the case of the petitioner that the factory under name and style of M/s Coral Chemical Pvt. Ltd. is running on the land in question since 1983. The petitioner had filed the objections under section 5-A however the same were rejected and thereafter the acquisition proceedings were challenged by filing writ petition bearing CWP no. 2835 of 2006 which was dismissed by this Court on 22.01.2008.

59. Pursuant thereto the petitioner approached the Apex court in Civil Appeal no. 828 of 2011, which was also dismissed by the Hon'ble Supreme Court vide order dated 24.02.2015, however the liberty was granted to the petitioner to approach the appropriate authority/ forum/ High Court for making application under section 24(2) of the Act of 2013 and the interim order was allowed to continue till the decision of the application.

60. Accordingly, the petitioner moved an application which was decided by speaking order dated 20.02.2017 and the claim of the petitioner was rejected by recording the reasons that the possession of the land stands taken vide Rapat no. 565 dated 02.03.2006 and thereafter it was handed over to Estate Office, Sonapat.

61. Further that the subject land falls along NH-1 and as per the Final Development Plan of Sonapat-Kundli Multifunctional Urban Complex 2021 AD affects 50 mtr wide green belt, 18 mtr wide service road, and public/ semi public/ institutional zone and as per zoning regulations, there is non-conforming use of the site. Accordingly the land was not recommended for release.

62. In view of the aforementioned facts and the principles enunciated in Indore Development Authority (Supra), we have no hesitation to hold that the present petition is not maintainable and the representation claiming lapse of acquisition has been rightly rejected as the acquisition proceedings qua the land in question stands upheld by the Hon'ble Apex Court and in accordance with the observations made in para 359 (discussed above) and para 363(9) the concluded claims cannot be reopened by aid of section 24(2) of the Act of 2013.

63. Further as far as the question of deemed lapsing is concerned, the possession of the land was taken by recording rapat and the compensation amount has not been received by the petitioner, though the majority of the compensation has been disbursed.

64. Therefore, in view of para 363(5) and 363(7), due possession of the land is taken and the compensation stands duly tendered and accordingly no ground is made out for declaring the acquisition proceedings to have been lapsed under section 24(2) of the Act of 2013 and thus the present petition is dismissed.

CWP No. 7649 of 2017 – Ravinder Kumar and other v. State of Haryana and others

65. In CWP no. 7649 of 2017, the petitioners are claiming lapsing of the acquisition proceedings of the land in question on the ground that neither the possession the land has been taken nor the amount of compensation has been paid to them. As per the petitioner the residential houses/ class one building constructed on the land in question exists prior

to the issuance of notification under section 4 of the Act of 1894 and besides the building there is nursery with electricity connection on the land in question.

66. Admittedly the petitioner had challenged the acquisition proceedings by filing writ petition which was dismissed and the order of dismissal was challenged in Civil Appeal no. 635 of 2011, which came to be decided vide judgment dated 24.02.2015, wherein the Hon'ble Apex Court dismissed the SLPs and Civil Appeals, however while dismissing granted the liberty to the petitioners to approach the appropriate forum for release of land under section 24(2) of the Act of 2013.

67. Consequently, the petitioners made representation seeking lapse of acquisition proceedings to the authorities, which was rejected by the concerned authority by passing speaking order dated 20.10.2016 wherein it has been so recorded that the possession of the land was taken on the same day and was handed over to Estate Office, Sonapat. The compensation amount except Rs. 241100/- has been received by the petitioner and the rest of the amount is lying deposited in the account of LAC.

68. The petitioner thereafter challenged the said speaking order in CWP no. 6959 of 2017, which was withdrawn with liberty to file fresh and now the petitioner has filed the present petition. The petitioner has challenged the speaking order on the ground that he has received the compensation for the other parcel of land and not for the land in question.

69. The Hon'ble Supreme Court in Indore Development Authority (Supra) has held that section 24(2) of the Act of 2013 cannot be used as an umbrella for re-opening the concluded cases and as far as the acquisition proceedings qua the claimed land is concerned, the same has been upheld by the Hon'ble Supreme Court, though the liberty to approach under section 24(2) of the Act of 2013 was granted. Though the petitioner has averred that he has received the amount of compensation only for other land and not for land in question, however the fact of the matter remains that the compensation amount was duly tendered and the petitioner himself chosen not to receive the same. As far as the possession is concerned the same was taken by recording rapat entry no. 69 dated 02.03.2006, therefore none of the grounds as required under section 24(2) of the Act of 2013 exists, especially in terms of the law laid down in para 363(5), 363(7) and 363(9) of Indore Development Authority (Supra) and thus the present petition challenging the order rejecting the claim under section 24(2) of the Act of 2013 is dismissed.

CWP No. 798 of 2017 – Mahender Singh v. State of Haryana and others

70. In CWP no. 798 of 2017, the petitioner is seeking lapsing of the acquisition proceedings under section 24(2) of the Act of 2013 qua the land measuring 13 kanal 14 marla in Village Aswarpur, District Sonapat on the ground that neither the compensation has been paid nor the possession of the land in question has been taken.

71. The perusal of the reply filed on behalf of the respondents shows that the possession of the land in question was taken vide Rapat

No.71 dated 02.03.2006 and thus in view of the observations made in para 363 (7) of the judgment the possession of the land has been validly taken.

72. Further as far as the aspect of compensation is concerned, it is stated to have been deposited with LAC and thus, has been duly tendered to the land owner who has chosen not to receive the same. Suffice to mention that majority of the award amount has been disbursed to the landowners.

73. As both the conditions in section 24(2) of the Act of 2013 remains unfulfilled viz. the possession of the land has been taken and the compensation has been tendered in terms of para 363(5) and 363(7) of Indore Development Authority (Supra), no case has been made out for the lapsing of the acquisition proceedings as has been prayed for and accordingly this writ petition is dismissed.

CWP No. 5156 of 2017 – Sanjay Kumar and others v. State of Haryana and others

74. In CWP no. 5156 of 2017, the petitioner is seeking lapse of the acquisition proceedings under section 24(2) of the Act of 2013 qua the land measuring 19 Kanal situated in village Asawarpur district Sonapat, on the ground that neither the compensation has been paid nor the possession of the land has been taken.

75. The respondents have filed the reply controverting the submissions made by the petitioner and has submitted that the possession of the claimed land already stands taken by recording rapat entry no. 71 dated 02.03.2006 and therefore in view of the observations made in para 363 (7) of the judgment the possession of the land has been validly taken.

76. Further as far as the aspect of compensation is concerned, it is stated on behalf of the respondents that the same has been deposited with LAC and further the petitioner has filed reference under section 18 of the Act of 1894 seeking enhancement in the compensation amount. This aspect has been very well dealt by the Hon'ble Court in Indore Development Authority (Supra) in para 224 as was discussed herein above as well, that the landowner who has filed the reference cannot claim that compensation was not paid to him.

77. As both the conditions in section 24(2) of the Act of 2013 remains unfulfilled viz. the possession of the land has been taken and the compensation has been tendered in terms of para 363(5) and 363(7) of Indore Development Authority (Supra), no case has been made out for the lapsing of the acquisition proceedings as has been prayed for and accordingly this writ petition is dismissed.

78. For the reasons mentioned herein above all these petitions are hereby dismissed and the pending applications also meets the same fate. Interim Order, if any, stands vacated in all the above cases.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

December 01, 2020
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No