

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision :12.10.2020
CWP-18718-2016 (O&M)

Daya Ram and othersPetitioners

Versus

State of Haryana and others Respondents

CWP-19206-2016

Naresh Chand Jain and othersPetitioners

Versus

State of Haryana and others Respondents

CWP-26277-2016

Rishi Pal and anotherPetitioners

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State of Haryana and others Respondents

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CWP-20482-2016

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State of Haryana and another

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

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv Kumar Sharma, Advocate in CWP-723-2018;
Mr.Kanwaljit Singh, Sr. Advocate with
Mr. M.K.Sood, Advocate in CWP-22202-2016;
Mr. Shailendra Jain, Sr. Advocate with
Mr. Sidharath Goyal, Advocate in CWP Nos. 19206, 26993,
27034 of 2016 and 3674 of 2017;
Mr. B.S.Rana, Sr. Advocate with
Ms. Divya Bajaj, Advocate in CWP No.7129-2017;
Mr.Manoj Kumar Sood, Advocate in CWP-18718-2016;
Mr. Sandeep Sharma, Advocate in CWP Nos. 21764, 23665 of
2016, 5442, 5447, 424, 11045 of 2017, 439, 2344 of 2018;
Mr. Amit Jain and Mr. Sandeep Sharma, Advocate
in CWP No.22936 of 2016;
Mr. Sandeep Sharma, Advocate for
Mr. N.D.Achint, Advocate
in CWP Nos.21764 & 23665 of 2016;
Mr. Ram Bilas Gupta, Advocate in CWP Nos.26204 of 2016,
10038, 6997, 2904, 3587, 6093 of 2017 and 2923 of 2018;
Mr. Ashwani Talwar, Advocate in CWP Nos. 815
and 17983 of 2017;

Mr. Gaurav Aggarwal, Advocate in CWP-3226 of 2017;
 Mr. Deepak Jindal, Advocate in CWP Nos. 3657, 10781, 12618, 16554, 24584, 27766, 6009, 7530, 4062, 4154, 6051, 6083, 7530 and 11775 of 2017, 497, 514, 517 and 572 of 2018;
 Mr. Sushil Jain, Advocate in CWP No.3215-2017 and
 Mr. Rajesh Lamba, Advocate for the applicant in CM-2624-CWP-2018 in CWP No.3215-2017;
 Mr. Adarsh Jain, Advocate in CWP Nos.25012 of 2016 & 3191 of 2018;
 Mr. Rakesh Nehra, Advocate in CWP No.23648-2016;
 Mr. Varun Gupta, Advocate in CWP-24057-2016;
 Mr. Deepender Singh, Advocate in CWP Nos.20934, 20943, 26261, 26263, 26265, 26266, 26276, 26262, 26264, 26267, 27000, 27042 of 2016, 4019, 4020, 4022, 4024, 4021 of 2017 and 2756 of 2018;
 Mr. Sanjay Vashisth and Mr. Akash Vashisth, Advocates in CWP Nos.15755 and 2774 of 2017;
 Mr. Jagjit Singh Gill, Advocate in CWP-22354-2016;
 Mr. Harsh Aggarwal, Advocate in CWP-26140-2016;
 Mr. Jasmer Rozera, Advocate in CWP-8919-2017;
 Mr. Sajjan Singh, Advocate in CWP-12450-2017;
 Mr. Surinder Mohan Sharma, Advocate in CWP-23590-2017;
 Mr. Jagdish Manchanda, Advocate in CWP-21864 of 2017 and 2642 of 2018;
 Mr. Sanjiv Gupta, Advocate in CWP Nos.19715 of 2016, 4072, 4073, 4079, 4080, 4109, 4110, 15567, 4111, 5357, 5354, 5363, 6508, 6521, 4570, 4597, 7264, 10923 and 3204 of 2017;
 Mr. Yashdev Kaushik, Advocate in CWP-3522-2017;
 Mr. S.P.Chahar, Advocate in CWP-27264-2016;
 Mr. Neeraj Gupta, Advocate in CWP-23793-2016;
 Mr. Rakesh Chaudhary, Advocate in CWP-249-2017;
 Mr. R.S.Manhas, Advocate in CWP-23118-2016;
 Mr. Ashish Chopra, Advocate with Ms. Rupa Pathania, Advocate in CWP Nos.23500, 23794 of 2016 and 2524-2017;
 Mr. Vikram Singh, Advocate in CWP Nos. 20482 of 2016, 1084, 2181, 5472, 5898, 9646, 9649, 5898, 1425, 25192 and 20540 of 2017 and 319 of 2018;
 Mr. Dinesh Malhotra, Advocate for Mr. Rajiv Kataria, Advocate in CWP-26226-2017;
 Mr. S.P.Khatri and Mr. Anil Dutt, Advocates in CWP Nos.25328-2016 and 3258-2017;
 Mr. Sandeep Sharma, Advocate for Mr. Ashok Jindal, Advocate in CWP-21227-2016;
 Mr. Akshay Jindal, Advocate in CWP Nos.23674 & 25622-2017;
 Mr. Keshav Partap, Advocate in CWP-22491-2016;
 Mr. Sanjay Vij, Advocate in CWP-26277-2016;
 Mr. Sandeep Panwar, Advocate in CWP-23038-2016;
 Mr. Ramandeep Singh, Advocate in CWP-23195-2016;
 Mr. Shalender Mohan, Advocate in CWP-25031-2017; for the petitioners.

Mr. Ankur Mittal, Additional Advocate General for the State of Haryana;

Mr. Lokesh Sinhal, Advocate for HSIIDC in CWP Nos. 18718, 20934, 20943, 26261, 26263, 26265, 26266, 26276, 26204, 26262, 26264, 26267, 27000, 27042 of 2016, 4019, 4020, 4022, 4024, 4021, 10038, 3522, 6997, 2904, 5472, 9646, 9649, 5898, 1425, 3587, 6093, 8919 of 2017, 2756, 2923 and 3191 of 2018;

Mr. Rajesh K. Sheoran, Advocate for HUDA in CWP Nos. 12618 and 6083 of 2017.

Mr. Ankur Mittal with Ms. Kushaldeep Kaur, Advocates for HSIIDC in CWP Nos. 815 of 2017, 2524 of 2017, 3215 of 2017, 3226 of 2017 and 21227 of 2016.

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

RAVI SHANKER JHA, CHIEF JUSTICE (Oral):

1. This bunch of 126 writ petitions were filed by the land owner(s), whose land had been acquired under the Land Acquisition Act, 1894; seeking lapsing of acquisition proceedings, in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'Act of 2013'), for, either the physical possession of the acquired land has not been taken or the requisite compensation has not been paid to the land owner(s) nor deposited in the Reference Court under Section 31 of the Land Acquisition Act, 1894 or both.

2. All these petitions were adjourned sine die to await the decision of the Supreme Court in different matters namely ***Yogesh Neema & ors. v. State of Madhya Pradesh reported as (2016) 6 SCC 387, State of Haryana v, Maharana Pratap Charitable Trust (Regd) & Anr. bearing Civil Appeal No. 4835 of 2015*** which came to be decided by the Constitution Bench of the Supreme Court in ***Indore Development Authority v. Manoharlal and others AIR 2020 SC 1496*** decided on 06.03.2020, thereby, interpreting the provisions of section 24(2) of the Act of 2013. And, also ***State of Haryana***

v. G.D Goenka Tourism Corporation Ltd. and Anr. SLP (C) CC no. 8453 of 2017 which was ordered to be listed awaiting the decision of the Constitution Bench in Indore Development Authority (Supra). Resultantly, this batch of writ petition is listed before this Court for final disposal.

3. Before advertng to each of the petitions individually, it would be worthwhile to briefly narrate the legal background of Section 24(2) of the Act of 2013. The Land Acquisition Act 1894 (hereinafter referred as ‘Act of 1894’), remained in force for 120 years. The legislature repealed the Act of 1894 and enacted Act of 2013 with effect from 01.01.2014 as prospective legislation thereby saving the acquisition proceedings already initiated under the Act of 1894, but subject to the provisions of Section 24 of the Act of 2013, the same is reproduced herein below:

“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.”

4. The perusal of section 24(2) of the Act of 2013 shows that it prescribes two contingencies firstly, the physical possession of the land not being taken and secondly the compensation not been paid to the landowner. The whole controversy revolved around the interpretation of the words ‘physical possession’ and ‘paid’ used under the Act of 2013. For the first time Section 24(2) of the Act of 2013 came to be interpreted by the Supreme Court in ***Pune Municipal Corporation and Anr v. Harakchand Misrimal Solanki and others 2014(3) SCC 183***. The Hon’ble Court held that Section 24(2) has overriding effect on section 24(1) and where an award has been made five years or more before the commencement of the Act of 2013, and either of the two contingencies i.e. possession of the land has not been taken ‘**or**’ the compensation has not been paid, the land acquisition proceedings lapses in view of the legal fiction envisaged in Section 24(2) of the Act of 2013. The Hon’ble Apex Court further interpreted the word ‘paid’ as used in section 24(2) of the Act of 2013 to hold that the obligation of the State to pay compensation in order to be considered as ‘paid’ under the section 24(2) is completed only when it has been offered to landowners/person interested and deposited in the court. The deposit in the Government Treasury was not considered as equivalent to compensation paid to the landowners/ persons

interested. The operative part of the judgment is reproduced hereunder:

'...17. While enacting Section 24(2), Parliament definitely had in its view Section 31 of the 1894 Act. From that one thing is clear that it did not intend to equate the word "paid" to "offered" or "tendered". But at the same time, we do not think that by use of the word "paid", Parliament intended receipt of compensation by the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression "paid" used in this sub-section (sub-section (2) of Section 24). If a literal construction were to be given, then it would amount to ignoring procedure, mode and manner of deposit provided in Section 31(2) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of Section 24(2), the compensation shall be regarded as "paid" if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under Section 18 can be made on happening of any of the contingencies contemplated under Section 31(2) of the 1894 Act. In other words, the compensation may be said to have been "paid" within the meaning of Section 24(2) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in Sections 32 and 33.

18. 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in Nazir Ahmad v. King Emperor, [A.I.R. 1936 Privy Council 253(2)]) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.

19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (27 crores) was deposited in the Government treasury. Can it be said that deposit of the amount of compensation in the Government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Ivo Agnelo Santimano Fernandes and Others v. State of Goa and Another; [2011(6) R.C.R.(Civil) 909 : (2011) 11 SCC 506], relying upon the earlier decision in Prem Nath Kapur v. National Fertilizers Corpn. of India Ltd., [(1996)2 SCC 71], has held that the deposit of the amount of the compensation in the state's revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in court.

20. From the above, it is clear that the award pertaining to the subject

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

5. The ratio laid in the *Pune Municipal Corporation (Supra)* was followed subsequently in various decisions, though many questions with regard to nascent law were left open. Thereafter it was in the case of *Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others, (2015) 3 SCC 353*, wherein a new aspect as regards the Section 24(2) of the Act of 2013 was touched by the Hon’ble Apex Court, wherein it went on to hold that section 24 does not exclude any period during which the land acquisition proceedings were stayed on account of any injunction or stay granted by the courts. The Hon’ble Court observed as under:

*11. From a plain reading of Section 24 of the 2013 Act it is clear that Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceedings might have remained stayed on account of stay or injunction granted by any court. In the same Act, the proviso to Section 19(7) in the context of limitation for publication of declaration under Section 19(1) and the Explanation to Section 69(2) for working out the market value of the land in the context of delay between preliminary notification under Section 11 and the date of the award, specifically provide that the period or periods during which the acquisition proceedings were held up on account of any stay or injunction by the order of any court be excluded in computing the relevant period. In that view of the matter it can be safely concluded that the legislature has consciously omitted to extend the period of five years indicated in Section 24(2) even if the proceedings had been delayed on account of an order of stay or injunction granted by a court of law or for any reason. Such casus omissus cannot be supplied by the court in view of law on the subject elaborately discussed by this Court in *Padma Sundara Rao v. State of T.N., (2002) 3 SCC 533*.*

12. Even in the Land Acquisition Act of 1894, the legislature had brought about amendment in Section 6 through an Amendment Act of 1984 to add Explanation I for the purpose of excluding the period when the proceeding suffered stay by an order of the court, in the

context of limitation provided for publishing the declaration under Section 6(1) of the Act. To a similar effect was the Explanation to Section 11-A which was added by Amendment Act 68 of 1984. Clearly the legislature has, in its wisdom, made the period of five years under Section 24(2) of the 2013 Act absolute and unaffected by any delay in the proceedings on account of any order of stay by a court. The plain wordings used by the legislature are clear and do not create any ambiguity or conflict. In such a situation, the court is not required to depart from the literal rule of interpretation."

6. The ratio laid down in *Sree Balaji Nagar Residential (Supra)* was doubted by the two judge bench of the Supreme Court 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 vide order dated 12.01.2016. Raising a similar question of law i.e. the period during which stay was operating needs to be excluded while determining five years window period as provided in section 24(2) of the Act of 2013, another matter titled as *State of Haryana v, Maharana Pratap Charitable Trust (Regd) & Anr bearing Civil Appeal No. 4835 of 2015*, was referred to a Larger Bench for adjudicating the issues involved. In yet another appeal, (arising out of *SLP(C) 2131 of 2016*) titled as *Indore Development Authority v. Shailendra (dead) through LR's and others*, the reference was made to a three judges bench to answer the following questions:

'...Whether a deposit in the Treasury or with the Collector amounts to a payment of compensation under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act'), especially when the landowners have refused to accept compensation? ("Question No. 1") II Whether the conscious omission referred to in paragraph 11 of the judgment in Sree Balaji Nagar Residential Association v. State of Tamil Nadu, (2015) 3 SCC 353 makes any substantial difference to the legal position with regard to the exclusion or inclusion of the period covered by an interim order of the Court for the purpose of determination of the applicability of Section 24(2) of the 2013 Act? ("Question No. 2") III Whether the principle of "actus curiae neminemgravabit", namely act of the court should not prejudice any parties would be applicable in the present case to exclude the period covered by an interim order for

the purpose of determining the question with regard to taking of possession as contemplated in Section 24(2) of the 2013 Act? (“Question No. 3”)...’

While answering the aforesaid issues, the three judges’ bench doubted the correctness of the judgment passed in *Pune Municipal Corporation (Supra)*, and further overruled *Sree Balaji (Supra)*, in order to hold that period covered by interim period has to be excluded for the purpose of determining the question of taking of possession as provided for in section 24(2) of the Act of 2013. The concluding part of the judgment, is reproduced hereunder:

‘. I QUESTION NO. 1: The acquisition proceedings do not lapse if the amount is deposited in the Treasury and such fact is made known to the claimants by the competent authority as required in law. Only interest is attracted, in case if the deposit is not made in Court. Consequently, I am unable to persuade myself to agree with the outcome of Pune Municipal Corporation (supra). However, according to me the judgment in Pune Municipal Corporation (supra) is not rendered in per incuriam.

In view of the above, the judgment in Pune Municipal Corporation (supra) may have to be reconsidered by a larger bench, inasmuch as Pune Municipal Corporation (supra) was decided by a bench of three judges. The Registry is directed to place the papers before the Hon’ble Chief Justice of India for appropriate orders.

II QUESTION NO. 2 AND QUESTION NO. 3: For the aforementioned reasons, I am unable to persuade myself to agree with Sree Balaji (supra), and the same stands overruled. Question No. 2 and Question No. 3 posed by the reference stand answered as follows:

i The conscious omission referred to in paragraph 11 of the judgment in Sree Balaji (supra) does not make any substantial difference to the legal position with regard to the exclusion or inclusion of the period covered by an interim order of the Court for the purpose of determination of the applicability of Section 24(2) of the 2013 Act. In fact, excluding such periods of interim stay from the calculation of the time period of five years under S. 24(2) makes a reading of the Act more consistent.

ii The principle of “actus curiae neminemgravabit”, or that the act of the court should not prejudice any parties, would be applicable in the present case to exclude the period covered by an

interim order for the purpose of determining the question with regard to taking of possession as contemplated in Section 24(2) of the 2013 Act....'

7. Thereafter in *Indore Development Authority v. Shyam Verma & Ors.* (SLP No. 9798 of 2016) considered it appropriate to refer the matter to Hon'ble the Chief Justice of India to refer the issues to be resolved by a larger Bench at the earliest. And, all the aforesaid references came to be decided by the Constitution Bench of Supreme Court in *Indore Development Authority v. Manoharlal (Supra)* decided on 06.03.2020. It is important to highlight at the outset that the Hon'ble Supreme Court in para 362 of the judgment has categorically overruled the decision rendered in *Pune Municipal Corporation and Anr. (Supra)* and all other decisions wherein the *Pune Municipal Corporation and Anr. (Supra)* was followed. Further the decision in *Sree Balaji Nagar Residential Association (supra)* and all decisions following the same have also been overruled. Even the judgment in *Indore Development Authority v. Shailendra (Dead) through L.Rs. and Ors., (supra)* would not have any bearing in the given circumstances as the aspect in relation to the proviso to Section 24(2) and whether the expression 'or' has to be read as 'nor' or as 'and' was neither in question nor considered.

8. While deciding the reference, the Apex Court framed following questions of law to explicate the applicability and scope of section 24(2) of the Act of 2013:

"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..."

9. In reference to the aforesaid issues, the Constitution Bench held that Section 24(2) of the Act of 2013 lays down twin test for lapse of acquisition proceedings initiated and concluded under Act of 1894. These two requirements are: (a) the 'physical possession' must not have been taken and (b) the 'compensation' must not have been 'paid'. While

answering the question as to whether these two conditions are disjunctive or conjunctive, the Court held that, Section 24(2) prescribes two negative conditions, and thus, even if one of the condition is fulfilled, the acquisition proceedings would not lapse. The Supreme Court while holding so has firstly relied on the concept of rule of interpretation with regard to two negative conditions that if ‘or’ is used with two negative conditions, the same needs to be read as ‘and’ which would mean for, the acquisition to lapse both the conditions must have been fulfilled i.e. neither the ‘physical possession’ of the land was taken nor the compensation was ‘paid’:

‘...99. In this Court’s considered view, as regards the collation of the words used in Section 24(2), two negative conditions have been prescribed. Thus, even if one condition is satisfied, there is no lapse, and this logically flows from the Act of 1894 read with the provisions of Section 24 of the Act of 2013. Any other interpretation would entail illogical results. That apart, if the rule of interpretation with respect to two negative conditions qualified by “or” is used, then “or” should be read as “nor” or “and”.

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101. In M/s. Ranchhoddas Atmaram and Anr. v. The Union of India and Ors.⁷⁷, a Constitution Bench of this Court observed that if there are two negative conditions, the expression “or” has to be read as conjunctive and conditions of both the clauses must be fulfilled. It was observed:

“(13) It is clear that if the words form an affirmative

sentence, then the condition of one of the clauses only need be fulfilled. In such a case, "or" really means "either" "or." In the Shorter Oxford Dictionary one of the meanings of the word "or" is given as "A particle co-ordinating two (or more) words, phrases or clauses between which there is an alternative." It is also there stated, "The alternative expressed by "or" is emphasised by prefixing the first member or adding after the last, the associated adv. EITHER." So, even without "either," "or" alone creates an alternative. If, therefore, the sentence before us is an affirmative one, then we get two alternatives, any one of which may be chosen without the other being considered at all. In such a case it must be held that a penalty exceeding Rs. 1,000 can be imposed.

(14) If, however, the sentence is a negative one, then the position becomes different. The word "or" between the two clauses would then spread the negative influence over the clause following it. This rule of grammar is not in dispute. In such a case the conditions of both the clauses must be fulfilled and the result would be that the penalty that can be imposed can never exceed Rs. 1,000.'

(15) The question then really comes to this: Is the sentence before us a negative or an affirmative one? It seems to us that the sentence is an affirmative sentence. The substance of the sentence is that a certain person shall be liable to a penalty. That is a positive concept. The sentence is therefore not negative in its import."

(emphasis supplied)

Thus, for lapse of acquisition proceedings initiated under the old law, under Section 24(2) if both steps have not been taken, i.e., neither physical possession is taken, nor compensation is paid, the land acquisition proceedings lapse...'

10. The Supreme Court while holding so, extensively relied on the concept of 'vesting' and 'divesting'. The Court observed that once the award is announced under Section 11 and the possession is taken by virtue of Section 16 of the Act of 1894, the land vests in the State free from all encumbrances. And once vesting takes place and the possession is taken, the landowner loses title and the Government becomes the absolute owner of the acquired land:

'...148. This Court is of opinion that Section 24 of the Act of 2013 does not intend to take away vested rights. This is because there is no specific provision taking away or divesting title to the land, which had originally vested with the State, or divesting the title or interest of beneficiaries or third-party transferees of such land which they had lawfully acquired, through sales or transfers. There is a specific provision made for divesting, nor does the Act of 2013 by necessary intendment, imply such a drastic consequence. Divesting cannot be said to have been intended. Here, the decision in VKNM Vocational Higher Secondary School v. State of Kerala is relevant; it was observed as follows by this Court:

“21. In our considered view, the above principles laid down by the Constitution Bench of this Court in Garikapati case will have full application while considering the argument of the learned Senior Counsel for the fifth respondent claiming a vested right by relying upon unamended Rule 7-A(3). Principles (i), (iii), (iv) and (v) of the said judgment are apposite to the case on hand. When we make a comprehensive reference to the above principles, it can be said that for the legal pursuit of a remedy it must be shown that the various stages of such remedy are formed into a chain or rather as series of it, which are connected by an intrinsic unity which can be called as one proceeding, that such vested right, if any, should have its origin in a proceeding which was instituted on such right having been crystallised at the time of its origin itself, in which event all future claims on that basis to be pursued would get preserved till the said right is to be ultimately examined. In the event of such preservation of the future remedy having come into existence and got crystallised, that would date back to the date of origin when the so-called vested right commenced, that then and then only it can be held that the said right became a vested right and it is not defeated by the law that prevails at the date of its decision or at the date of subsequent filing of the claim. One other fundamental principle laid down which is to be borne in mind, is that even such a vested right can also be taken away by a

subsequent enactment if such subsequent enactment specifically provides by express words or by necessary intendment. In other words, in the event of the extinction of any such right by express provision in the subsequent enactment, the same would lose its value."

149. The decision in *State of Haryana v. Hindustan Construction Co. Ltd*¹¹², is relied upon to contend that the line of enquiry is not to enquire if the new enactment has by its new provisions kept alive the rights and liabilities under the repealed law or whether it has taken away those rights and liabilities. When repeal is followed by a fresh enactment on the same subject, the provisions of the General Clauses Act would undoubtedly require an examination of the language of the new enactment if it expresses an intent different from the earlier repealed Act. The enquiry would necessitate the examination if the old rights and liabilities are kept alive or whether the new Act manifests an intention to do away with or destroy them. If the new Act manifests different intentions, the application of the General Clauses Act will stand excluded.

150. We have examined the provisions of Section 24 of the Act of 2013 in the light of the said pleas and thereafter arrived at our conclusions as to when and to what extent proceedings lapsed or/and were saved and what liabilities have been taken away and to what extent

there is obliteration of the rights acquired and liabilities incurred earlier under the Act of 1894 and what is done away or destroyed by the new Act.

151. The Section 24(2) of the Act of 2013 is to be interpreted consistent with the legislative intent, particularly when it has provided for the lapse of the proceedings. It has to be interpreted in the light of provisions made in Sections 24 and 114 of the Act of 2013 and Section 6 of the General Clauses Act, what it protects and to what extent it takes away the rights of the parties. Undoubtedly, Section 24(2) has retroactive operation with respect to the acquisitions initiated under the Act of 1894 and which are not completed by taking possession nor compensation has been paid in spite of lapse of 5 years and proceedings are kept pending due to lethargy of the officials. The drastic consequences follow by the provisions contained in Section 24(2) in such cases.”

11. Having held that conditions prescribed in Section 24(2) of the Act of 2013 are conjunctive in nature, the Supreme Court went on to explain the meanings of ‘paid’ and ‘physical possession’ occurring in Section 24(2) of the Act of 2013. While explaining the word ‘paid’ the Court observed that the expression, ‘*where compensation has not been paid*’ would mean that it has not been tendered for payment under section 31(1) of the Act of 1894. Though the word ‘paid’ amounts to a completed event however, once payment of compensation has been tendered/offered under section 31(1) of

the Act of 1894, the acquiring authority cannot be penalized for non-payment as the amount has remained unpaid due to refusal to accept, by the landowner and Collector is prevented from making the payment. And, in case of non deposit, the Court held that consequence would not result in lapse of acquisition, rather the result that would ensue in that eventuality would be one, higher compensation/compensation under the Act of 2013 in a case where possession has been taken, payment has been made to few and the amount has not been deposited with respect to the majority of the holdings and two, the beneficiaries would be entitled to interest as envisaged under section 34 of the Act of 1894 from the date of taking possession at the rate of 9% per annum for the first year and subsequently at 15% per annum:

“204. The concept of "deposit" is different and quite apart from the word “paid”, due to which, lapse is provided in Section 24 of Act of 2013. In the case of non-deposit for the majority of landholdings, higher compensation would follow as such word “paid” cannot include in its ambit word “deposited”. To hold otherwise would be contrary to provisions contained in Section 24(2) and its proviso carrying different consequences. It is provided in Section 34 of Act of 1894, in case payment has not been tendered or paid, nor deposited the interest has to be paid as specified therein. In Section 24(2) also lapse is provided in case amount has not been paid and possession has not been taken.

205. In our considered opinion, there is a breach of obligation to deposit even if it is taken that amount to be deposited in the reference court in exigencies being

prevented from payment as provided in Section 31(2). The default will not have the effect of reopening the concluded proceedings. The legal position and consequence which prevailed from 1893 till 2013 on failure to deposit was only the liability for interest and all those transactions were never sought to be invalidated by the provisions contained in Section 24. It is only in the case where in a pending proceeding for a period of five years or more, the steps have not been taken for taking possession and for payment of compensation, then there is a lapse under section 24(2). In case amount has not been deposited with respect to majority of land holdings, higher compensation has to follow. Both lapse and higher compensation are qualified with the condition of period of 5 years or more.

206. It was submitted that mere tender of amount is not payment. The amount has to be actually paid. In our opinion, when amount has been tendered, the obligation has been fulfilled by the Collector. Landowners cannot be forced to receive it. In case a person has not accepted the amount wants to take the advantage of non-payment, though the amount has remained due to his own act. It is not open to him to contend that amount has not been paid to him, as such, there should be lapse of the proceedings. Even in a case when offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holding, for

that adequate provisions have been given in the proviso also to Section 24(2). The scheme of the Act of 2013 in Sections 77 and 80 is also the same as that provided in Sections 31 and 34 of the Act of 1894.”

12. Likewise, the Supreme Court also explicated the meaning and concept of ‘**physical possession**’ under section 24(2) of the Act of 2013 and as to whether there was/is any difference between taking possession under the Act of 1894 and the expression ‘physical possession’ used in section 24(2) and held that what was contemplated under the Act of 1894, by taking the possession meant only physical possession of the land. The Court further held that possession taken by drawing a panchnama is a valid mode of taking possession and whosoever remains in the possession thereafter is at best a trespasser on the land which is in the possession of the State:

“244. Section 16 of the Act of 1894 provided that possession of land may be taken by the State Government after passing of an award and thereupon land vest free from all encumbrances in the State Government. Similar are the provisions made in the case of urgency in Section 17(1). The word “possession” has been used in the Act of 1894, whereas in Section 24(2) of Act of 2013, the expression “physical possession” is used. It is submitted that drawing of panchnama for taking over the possession is not enough when the actual physical possession remained with the landowner and Section 24(2) requires actual physical possession to be taken, not the possession in any other form.

When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. The act of vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances.

245. The question which arises whether there is any difference between taking possession under the Act of 1894 and the expression “physical possession” used in Section 24(2). As a matter of fact, what was contemplated under the Act of 1894, by taking the possession meant only physical possession of the land. Taking over the possession under the Act of 2013 always amounted to taking over physical possession of the land. When the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the physical possession of the land. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts

residing in the outhouse, etc., is deemed to be the trespasser on land which in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case”.

13. Besides the above, the other aspects that were considered by the Court are discussed herein below along with the individual cases. However, to have a bird's eye view of what the Supreme Court held in totality, the reference can be made to the **para 363** of the judgment wherein it has been concluded:

‘...1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

3. The word ‘or’ used in Section 24(2) between possession and compensation has to be read as ‘nor’ or as ‘and’. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

4. *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. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the 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.*

5. *In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.*

6. *The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

7. *The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting*

provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

9. *Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition’.*

14. It is necessary to notice here that when these matters were taken up for hearing, Mr. Ankur Mittal, Additional Advocate General, Haryana, placed on record a detailed synopsis in a tabular form in respect of all the Writ Petitions, thereby, pointing out the necessary details viz-the land involved in the respective writ petition, the rapat number along with the date of its recording, the status of compensation etc., which has been taken on record. He has categorically submitted that nothing survives in the present writ petitions in view of the principles laid down by the Hon’ble Apex Court in the Indore Development Authority v. Manoharlal and others (Supra) and the same needs to be dismissed in view thereof. He submits that

the Hon'ble Court has settled the controversy surrounding section 24(2) of the Act of 2013 and while doing so has explained the meaning of expressions 'physical possession' and 'compensation not paid' occurring in the Section 24(2) of the Act of 2013, besides holding that for the lapse of acquisition both of the contingencies prescribed under section 24(2) i.e. physical possession not have been taken and the compensation must not have been paid must be fulfilled for seeking lapse, in an eventuality wherein one of the component is not satisfied, the acquisition proceedings cannot lapse.

He submits that in view of the para 244 and 245 of the judgment, taking of the '*possession*' as contemplated under the Act of 1894 and Act of 2013 always amounted to taking the '*physical possession*' of the land and the recording of the panchnama is a valid mode of taking '*physical possession*'. Thus, in view thereof whosoever has retained the possession of the land after recording of panchnama, it is only in the form of 'trespasser' as once the possession of the land has been taken, the land stands vested in the State for all intents and purposes. He further submits that once it is established that the possession of the land is with the State and the panchnama was recorded, one of the components for seeking lapse of acquisition under section 24(2) of the Act of 2013 goes, and thus the claim of the landowner under section 24(2) cannot sustain.

As regards the compensation part, he submits that what has been contemplated under section 24(2) of the Act of 2013, is the 'tender' of the compensation amount and not the actual payment of the same or depositing it in the Court under section 31(2) of the Land Acquisition Act, 1894. If the amount has been tendered and the landowners has refused to receive the same or has not been deposited in the Court, for whatsoever

reasons, the consequence of the same can never be the lapse of acquisition proceedings, at best in such case the landowner can seek compensation in the manner as contemplated under the Act. He submits that the Hon'ble Supreme Court has precluded all those landowners to claim lapse of acquisition proceedings who have filed reference for the higher compensation, and have been held entitled to the compensation as would be determined by the Reference Court. Therefore in a nutshell, the obligation of the State stands fulfilled on 'tendering' the amount of compensation and the fact that the landowner has not received the same will not lead to the lapsing of acquisition proceedings.

He has taken strong objection in respect of the cases wherein the lapsing has been sought by the subsequent purchasers and wherein in the earlier round of litigation the acquisition proceedings stood upheld. He submits that the subsequent purchasers have no right to challenge the acquisition proceedings and further to claim the lapse thereof in light of the mandate of the Hon'ble Supreme Court in *Shiv Kumar and Anr v. Union of India and others 2019(10) SCC 229*, as also affirmed by the Hon'ble Supreme Court in *Indore Development Authority v. Manoharlal (Supra)*. Further the landowners who have earlier lost the challenge made to the acquisition proceedings, cannot seek any relief under the umbrella of section 24(2) of the Act of 2013. Concluding his submissions, he submitted that in view of the ratio of the judgment passed by Hon'ble SC in *Indore Development Authority v. Manoharlal (Supra)* nothing survives in any of the petition and the same be decided in same terms thereof.

15. We have gone through the entire judgment passed by the Hon'ble SC in *Indore Development Authority v. Manoharlal (Supra)* with the valuable assistance of the Ld. Counsels appearing for the petitioners and

the respondents and in view of the decision rendered therein, we deem it appropriate to categorise the present bunch of cases in following four categories.

Category I- wherein the petitioner is subsequent purchaser i.e. purchased the land after the notification under section 4 of the Land Acquisition Act, 1894 was issued;

Category II- wherein the stay on the dispossession was operating in the earlier challenge made to the acquisition proceedings;

Category III- wherein the petitioners had earlier challenged the acquisition and the acquisition was upheld;

Category IV- the cases wherein the landowners were seeking lapse either on account that the possession has not been taken or the compensation has not been paid or both.

Category I- Subsequent Purchaser:

16. The law in this regard is well settled that the person who has purchased the land after the issuance of notification under section 4 cannot challenge the acquisition proceedings. This has been so held in plethora of cases By the Hon'ble Supreme Court, the reference in this regard can be made to *Rajasthan State Industrial Development and Investment Corpn. v. Subhash Sindhi Cooperative Housing Society, Jaipur & Ors. (2013) 5 SCC 427*, *V. Chandrasekaran and Anr. v. Administrative Officer and Ors. 2012 (12) SCC 133*; *U.P. Jal Nigam, Lucknow through its Chairman & Anr. v. Kalra Properties (P) Ltd., Lucknow & Ors. (1996) 3 SCC 124*; *Sneh Prabha (Smt.) & Ors. v. State of U.P. & Anr. (1996) 7 SCC 426*.

17. However, the Supreme Court in *Government (NCT of Delhi) v. Manav Dharam Trust, (2017) 6 SCC 751* held that though the subsequent purchaser cannot challenge the acquisition proceedings, but can seek lapsing of acquisition under section 24(2) of the Act of 2013. Therefore, later the judgment in Manav Dharam's was declared to be a bad law by a three judge bench of the Supreme Court in *Shiv Kumar and Anr v. Union of India and others 2019(10) SCC 229*, and it was held that subsequent purchaser has no right to seek the lapsing of acquisition:

‘...16. Section 24 (2) provides that in case the award has been passed five years or more prior to the commencement of the 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. It is not the case set up that compensation had not been paid to purchasers/owners. The only case set up is that physical possession has not been taken and proceedings of taking over possession have been questioned to take advantage of provisions under Section 24(2) of the Act of 2013. Whereas, averment in the writ petition itself indicates that possession had been taken over in the year 2000 and that unauthorized colonies have come up in the area. Thus, it is clear that possession, if any, is illegal, and in fact, the actual physical possession had been taken, and re-entering in possession in an unauthorized manner can confer no right. There is nothing to doubt that actual physical possession had been taken in 2000. Thus, Section 24(2) is not attracted in the case.

17. Even otherwise, proviso to Section 24(2) does not recognize a purchaser after Section 4 notification inasmuch as it provides that where an award has been made, and the 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 issued under the Act of 1894, shall be entitled to compensation under the provisions of the Act of 2013. The proviso makes it clear that in case of compensation concerning the majority of landholding has not been deposited, then recorded owner(s) at the time of issuance of notification under section 4 of the Act of 1894 shall have the right to receive the compensation. Purchasers after section 4 notification have not been given the right to receive the higher compensation under the provisions contained in the act of 2013.

18. The Act of 2013 presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after section 4 notification as sale deed is void under the Act of 1894, cannot claim rehabilitation and resettlement as per policy envisaged under the Act of 2013, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to section 24(2) under the Act of 2013. An original landowner cannot be deprived of higher value under the Act of 2013, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under proviso to Section 24(2) on recorded owners under Act of 1894. We have come across instances in which after notifications under section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the Act of 2013 as it is to be given to the owner as mentioned in the notification.

19. Given that, the transaction of sale, effected after section 4 notification, is void, is ineffective to transfer the

land, such incumbents cannot invoke the provisions of section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim 'possession' and challenge the acquisition as having lapsed under section 24 by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

20. Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought under section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the Act of 2013 is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

21. 'Void is, ab initio,' a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land

should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration under Section 24 of the Act of 2013; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights under section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the Act of 2013 cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in U.P. Jal Nigam (supra) which is followed in M. Venkatesh (supra) and other decisions and consequently claim declaration under Section 24 of the Act of 2013. What cannot be done directly cannot be permitted in an indirect method.

22. The provisions of the Act of 2013 aimed at the acquisition of land with least disturbance to the landowners and other affected families and to provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired or are affected and to make adequate provisions for such affected persons for their rehabilitation and resettlement. The provisions of Act of 2013 aim at ousting all inter-meddlers from the fray by ensuring payment in the bank account of landholders under section 77 of the Act.

23. The intendment of Act of 2013 is to benefit farmers etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of Act of 2013. It is not open to them to claim that the proceedings have lapsed under Section 24(2).'

18. The Constitution Bench in *Indore Development (Supra)* has affirmed the view taken in *Shiv Kumar's case (Supra)*, in para 337 to hold

that the provision under section 24(2) of the Act of 2013 cannot be invoked by the persons who have purchased the land after the notification under section 4 is issued:

‘...337. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. The beneficiaries, i.e., landowners contemplated under the proviso to Section 24(2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the Act of 1894. The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from proviso to Section 24(2) and the decision in Shiv Kumar and Ors. v. Union of India and Ors...’

19. In the present batch of petition i.e. CWP No. 25031 of 2017, has been filed by the person who purchased the land vide sale deed dated 24.11.2009, though the land claimed in the petition was acquired vide notifications dated 10.05.1989 and 09.05.1990 issued under Section 4 and Section 6 of the Land Acquisition Act, 1894, followed by award dated 07.05.1992, for the public purpose namely, Development and Utilization of land for sectors 6, 7 and 8, Panipat.

20. Therefore, in the light of the settled law in this regard and without going into the merits of the case, the petition deserved to be rejected on this score alone and is accordingly dismissed.

Category II – Cases wherein Stay is operating on the dispossession of the petitioner/ landowner:

21. CWP Nos. 4020 of 2017, 26265 of 2016, 26262 of 2016, 27000 of 2016, 2756 of 2018, 3191 of 2018 and 26226 of 2017, in the present bunch are the cases, in which status quo or interim order were operating on account of them having earlier challenged the acquisition proceedings and the petitions were lying admitted in the Court until they were finally dismissed or disposed of by the Court.

In such cases, it is necessary to see as to whether they fall within the prerequisite 5 years window period as provided under Section 24(2) of the Act of 2013.

22. The Supreme Court in **Indore Development Authority (supra)**, has categorically held in para 363(2) of the judgment that, ***‘in case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then the proceedings shall continue as provided under section 24(1) (b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.’***

For the sake of clarity on this aspect it would be apposite to refer to the analysis that preceded this conclusion:

‘....297. In cases where some landowners have chosen to take recourse to litigation (which they have a right to) and have obtained interim orders on taking possession or orders of status quo, as a matter of practical reality it is not

possible for the authorities or State officials to take the possession or to make payment of the compensation. In several instances, such interim orders also impeded the making of an award. Now, so far as awards (and compensation payments, pursuant to such proceedings were concerned) the period provided for making of awards under the Act of 2013 could be excluded by virtue of Explanation to Section 11A. Thus, no fault of inaction can be attributed to the authorities and those who had obtained such interim orders, cannot benefit by their own action in filing litigation, which may or may not be meritorious. Apart from the question of merits, when there is an interim order with respect to the possession or order of status quo or stay of further proceedings, the authorities cannot proceed; nor can they pay compensation. Their obligations are intertwined with the scheme of land acquisition. It is observed that authorities may wait in the proceedings till the interim order is vacated.

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327. There can be no doubt that when parties are before court, the final decision has to prevail, and they succeed or fail based on the merits of their relative cases. Neither can be permitted to take shelter under the cover of court's order to put the other party in a disadvantageous position. If one has enjoyed under the court's cover, that period cannot be included towards inaction of the authorities to take requisite steps under Section 24. The State authorities would have

acted but for the court's order. In fact, the occasion for the petitioners to approach the court in those cases, was that the State or acquiring bodies were taking their properties. Ultimately case had to stand on its merit in the challenge to the acquisition or compensation, and no right or advantage could therefore be conferred (or accrue) under Section 24(2) in such situations.

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331. For all these reasons, it is held that the omission to expressly enact a provision, that excludes the period during which any interim order was operative, preventing the State from taking possession of acquired land, or from giving effect to the award, in a particular case or cases, cannot result in the inclusion of such period or periods for the purpose of reckoning the period of 5 years. Also, merely because timelines are indicated, with the consequence of lapsing, under Sections 19 and 69 of the Act of 2013, per se does not mean that omission to factor such time (of subsistence of interim orders) has any special legislative intent. This Court notices, in this context, that even under the new Act (nor was it so under the 1894 Act) no provision has been enacted, for lapse of the entire acquisition, for non-payment of compensation within a specified time; nor has any such provision been made regarding possession. Furthermore, non-compliance with payment and deposit provisions (under Section 77) only results in higher interest pay-outs under Section 80. The omission to provide for

exclusion of time during which interim orders subsisted, while determining whether or not acquisitions lapsed, in the present case, is a clear result of inadvertence or accident, having regard to the subject matter, refusal to apply the principle underlying the maxim actus curae neminem gravabit would result in injustice...’

In the cases referred above, the stay was operating as regards dispossession, and thus, it is important to examine individual cases in context of the factual situation obtaining in each of those:

CWP No. 4020 of 2017	Sec 4- 31.07.2006 Sec 6- 09.08.2007 Award- 29.07.2008 Industrial Model Township	The petitioner challenged the acquisition proceedings in CWP no. 12590 of 2008 and the same was dismissed vide order dated 27.01.2010 After the dismissal the possession was taken by Kabja Karyavahi (Rapat) dated 02.06.2011 and the mutation was sanctioned in favour of HSIIDC in the year 2011-2012. In addition to this the compensation has already been paid to the petitioner and the plots under Rehabilitation and Resettlement policy has already been allotted.
CWP No. 26265 of	Sec 4- 31.07.2006 Sec 6- 09.08.2007 Award- 29.07.2008	In the present case the challenge was made to the acquisition proceedings qua the claimed

2016	Industrial Model Township	land in CWP no. 12953 of 2008 and the dispossession was stayed vide order dated 25.07.2008, The writ petition was dismissed vide order dated 27.01.2010 and thereafter the possession of the land was taken vide Rapat no. 915 dated 02.06.2011. In addition to this, the perusal of the written statement reveals that the petitioner has already received the compensation as well as amount of enhanced compensation in addition to the structure award.
CWP No. 26262 of 2016	Sec 4- 31.07.2006 Sec 6- 09.08.2007 Award- 29.07.2008 Industrial Model Township	In the present case the challenge was made to the acquisition proceedings qua the claimed land in CWP no. 12953 of 2008 and the dispossession was stayed vide order dated 25.07.2008, and the writ petition was dismissed vide order dated 27.01.2010. In addition to this, the perusal of the written statement reveals that the petitioner has already received the compensation as well as amount of enhanced compensation in addition to the structure award.
CWP No.	Sec 4- 31.07.2006	In the present case the challenge

27000 of 2016	Sec 6- 09.08.2007 Award- 29.07.2008 Industrial Model Township	was made to the acquisition proceedings qua the claimed land in CWP no. 12953 of 2008 and the dispossession was stayed vide order dated 25.07.2008, and the writ petition was dismissed vide order dated 27.01.2010. In addition to this, the perusal of the written statement reveals that the petitioner has already received the compensation as well as amount of enhanced compensation in addition to the structure award and the plot under Rehabilitation and Resettlement policy already stands allotted.
CWP No. 2756 of 2018	Sec 4- 31.07.2006 Sec 6- 09.08.2007 Award- 29.07.2008 Industrial Model Township	In the present case the challenge was made to the acquisition proceedings qua the claimed land in CWP no. 12953 of 2008 and the dispossession was stayed vide order dated 25.07.2008, and the writ petition was dismissed vide order dated 27.01.2010. In addition to this, the perusal of the written statement reveals that the petitioner has already received the compensation amount.

CWP No. 3191 of 2018	Sec 4- 31.07.2006 Sec 6- 09.08.2007 Award- 29.07.2008 Public Purpose: Industrial Model Township	In the present case the challenge was made to the acquisition proceedings qua the claimed land in CWP no. 11452 of 2008, dispossession was stayed and the writ petition came to be dismissed on 27.01.2010. The possession was taken vide Rapat no. 915 dated 02.06.2011 In addition to this, the amount of compensation stands deposited in the Court of ADJ.
CWP No. 26226 of 2017	Sec 4 –30.01.1989 Sec 6 – 25.01.1990 Award -22.01.1992 Development and Utilization of Land for Sector 33-34 Gurugram	In the present case the challenge was made to the acquisition proceedings in CWP no. 2254 of 1990 wherein the dispossession was stayed vide order dated 22.02.1990 and ultimately the writ petition was dismissed vide order dated 16.03.2011.

In accordance with the principles laid down by the Supreme Court, the above mentioned cases deserves to be dismissed on two scores i.e. one after excluding the stay period, the case does not fall within the window period of 5 years as provided in the Section 24(2) of the Act of 2013 and further in the earlier challenge to the acquisition, the proceedings were upheld by the Courts and thus the petitioners could not have challenged the proceedings again on the ground as provided for under Section 24(2) of the Act of 2013, as the same cannot be used as a tool to revive the stale claims.

With regard to the stale claims, a detailed discussion has been given in the

proceeding paragraphs. Therefore, all these writ petitions are accordingly dismissed.

Category III - Revival of Stale claims/ cases wherein the acquisition proceedings stood upheld in the earlier round of litigation

23. Under this category all those writ petitions are being examined wherein the landowners had earlier challenged the acquisition proceedings, however the proceedings stood upheld and after the enactment of the Act of 2013, such landowners again approached this Court for seeking lapse of acquisition proceedings in view of section 24(2) of the Act of 2013. Before discussing the individual facts of the cases, the reference can be made to Indore Development Authority (supra) in para 359 of the judgment, the petitioner has no right to challenge the concluded acquisition proceedings. Para 359 and 363(9) 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.

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363 (9). Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded

proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

Thus, the concluded claims cannot be reopened under the umbrella of Section 24(2) of the Act of 2013.

24. In CWP No. 18718 of 2016, the claimed land i.e. land falling in Khasra Nos. 87//15/2(5-2), 16(7-3), 17/2, 24, 25, 93/1/1, 94/4/5 was acquired vide notifications dated 22.08.1988 and 07.07.1989 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 30.03.1990 for the public purpose namely Development of Residential and Commercial Area of Sector 46, Part II Faridabad-Ballabgarh Controlled Area. The possession of the land except the one falling in Khasra no. 87//15/2 was taken vide Rapat no. 576 dated 22.05.1990 and the possession of Khasra no. 87//15/2 was taken vide rapat no. 172 dated 30.11.1990. The petitioner received the compensation for the entire land except the one falling in Khasra no 87//15/2 vide cheque dated 25.05.1990. It is pertinent to mention that the acquisition proceedings qua the claimed land was challenged in CWP no. 1258 of 1990 and the status quo was granted which was vacated vide order dated 10.05.1990 except for Khasra no. 87//15/2 and thereafter the writ petition was dismissed vide order dated 23.08.1990. Further the SLP filed against the order bearing SLP no. 4258 of 1991 was also dismissed and thus the

acquisition proceedings stood upheld up till the Hon'ble Supreme Court of India and therefore, in view of the principles laid down in the Thus, the petition needs to be dismissed on this ground also, besides the ground that the possession has already been taken through panchnama.

25. In **CWP No. 26277 of 2016** - The claimed land was acquired vide notification dated 08.03.1989 and 07.03.1990 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 14.03.1991 for the public purpose namely Development of Residential and Commercial Area of Sector 9, 9-A and 10 Gurugram. The possession of the land was taken vide Rapat no. 544 dated 11.07.2001. Earlier the petitioner had challenged the acquisition proceedings in CWP no. 3906 of 1991 which was disposed of vide order dated 25.04.2000. Therefore the acquisition stands concluded earlier and the possession taken vide rapat roznamcha, therefore the petition needs to be dismissed.

26. In **CWP No. 7129 of 2017** -The claimed land was acquired vide notification dated 10.05.1989 and 09.05.1990 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 06.05.1992 for the public purpose namely Development of Residential, Commercial, Industrial and Institutional Sectors 6, 7 and 8 Panipat. The possession of the land was taken vide Rapat no. 473 dated 07.05.1992 and the petitioner had already received the compensation amount. The proceedings qua the claimed land was challenged in CWP no. 4974 of 1992 which was dismissed as infructuous vide order dated 06.12.1995 on filing of the reply of the State that the constructed area is released from the acquisition and the rest of the proceedings were upheld. Thus, the validity of the acquisition proceedings stood upheld in the earlier round of litigation.

27. In **CWP No. 22354 of 2016**- The claimed land was acquired

vide notification dated 30.11.2004 and 28.11.2005 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 27.11.2007 for the public purpose namely Development of Residential Sector 19 (Part) Sirsa. The possession of the land was taken vide Rapat no. 126 dated 27.11.2007, the earlier petition filed by the landowners bearing CWP no. 17794 of 2006 was disposed of and 1197 sq. yards land was released and the rest of the acquisition stood upheld.

28. CWP No. 23118 of 2016- The claimed land was acquired vide notification dated 22.08.2001 and 25.01.2002 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 19.11.2003. The proceedings were challenged in CWP no. 571 of 2004 and the same was dismissed vide order dated 04.05.2006 by observing that there is hardly any construction on the site and thus, the acquisition proceedings stood upheld.

29. In CWP No. 23500 of 2016- The claimed land was acquired vide notification dated 06.01.2004 and 17.12.2004 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 09.01.2006 for the public purpose namely Development of Residential, Commercial, Industrial and Institutional Sector at Pataudi. The possession of the land was taken vide Rapat no. 304 dated 09.01.2006. The earlier challenged to the acquisition proceedings in CWP no. 2391 of 2006 was partly allowed vide order dated 10.01.2014 and the acquisition proceedings for 1 acre 4 kanals 13 marlas was upheld, while the rest of the land was released. The SLP filed against the order was also dismissed and the acquisition proceedings thus stood upheld.

30. In CWP No. 23665 of 2016- The claimed land was acquired vide notification dated 10.01.1983 and 07.12.1983 issued under section 4

and section 6 of the Land Acquisition Act, 1894 followed by the award dated 21.09.1986 for the public purpose namely Development of Residential, Commercial, and Institutional Sector 32 gurugram. The possession of the land was taken vide Rapat no. 34 dated 21.09.1986. The earlier challenge to the acquisition proceedings in CWP no. 5553 of 1992 was dismissed vide order dated 03.11.1992 and thus the acquisition proceedings stood upheld.

31. In **CWP No. 815 of 2017**- The claimed land was acquired vide notification dated 22.06.2006 and 20.06.2007 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 28.01.2008 for the public purpose namely Development of Industrial Sector 38 Sonipat. The possession of the land was taken vide Rapat no. 302 dated 28.01.2008. The earlier challenge to the acquisition in CWP no. 19912 of 2008 was rejected vide order dated 03.03.2011 by observing that the land of the petitioner falls within the infrastructural facilities. Thereafter SLP (C) 16557 of 2011 filed challenging the dismissal order was also dismissed vide order dated 11.07.2011.

32. In **CWP No. 20540 of 2017**- The claimed land was acquired vide notification dated 09.09.2002 and 08.09.2003 issued under section 4 and section 6 of the Land Acquisition Act, 1894 followed by the award dated 06.09.2005 for the public purpose namely Development of Residential and Commercial Area of Sector 6, 7, 8 and 9 Jind. The possession of the land was taken vide rapat no. 15 dated 06.09.2005 and the earlier challenge to the acquisition in CWP no. 19262 of 2005 was dismissed vide order dated 15.05.2007 thereby upholding the acquisition proceedings.

33. In **CWP No. 3674 of 2017** - The claimed land was acquired vide notification dated 04.03.1983 and 27.02.1986 issued under section 4

and section 6 of the Land Acquisition Act, 1894 followed by the award dated 27.02.1986 for the public purpose namely Development of Residential and Commercial area of Sector 8 Ambala. The possession of the land was taken vide rapat dated 23.02.1988. The earlier challenge to the acquisition was made in CWP no. 2286 of 1986 which was disposed of on 01.07.2009 and the SLP bearing no. 17630 of 2009 filed against the same was dismissed vide order dated 03.08.2009.

All the aforesaid writ petitions are hereby dismissed being the subsequent round of challenge to the acquisition proceedings when in the earlier round of challenge, the acquisition proceedings stood upheld and thus, the stale claims and the concluded proceedings cannot be reopened by taking an aid of section 24(2) of the Act of 2013.

Category IV –Cases wherein the landowners were seeking lapse either on account that the possession has not been taken or the compensation has not been paid or both.

34. This category includes all such cases wherein the acquisition proceedings were concluded years ago, however the landowners chose not to challenge the same, until a right under section 24(2) accrued to them when the Act of 2013 was implemented.

35. In **CWP No. 19206 of 2016** and **439 of 2018**, the land was acquired vide notification dated 08.03.1989 and 07.03.1990, followed by the award dated 14.03.1991 for the public purpose namely, Development of residential and Commercial area in Sector 9, 9A and 10 Gurugram. The possession of the land was taken vide rapat no. 544 dated 11.07.2001 and rapat no. 306 dated 05.03.1992 respectively and thus when once the possession has been taken, the lapse under section 24(2) of the Act of 2013 cannot be claimed.

36. *CWP Nos. 1084 of 2017, 20943 of 2016, 4019 of 2017, 4022 of 2017, 4024 of 2017. 4021 of 2017, 26261 of 2016, 26263 of 2016, 26266 of 2016, 26276 of 2016, 10038 of 2017, 3522 of 2017, 6997 of 2017, 26204 of 2016, 26264 of 2016, 26267 of 2016, 2904 of 2017, 27042 of 2016, 5472 of 2017, 9646 of 2017, 9649 of 2017, 5898 of 2017, 1425 of 2017, 3587 of 2017, 25012 of 2016, 2923 of 2018 , 60393 of 2017 and 8919 of 2017,*

arises out of same acquisition proceedings wherein the land was acquired for the public purpose namely, setting up of Industrial Model Township at Village Machhgarah and Chandawali, District Faridabad vide notification dated 31.07.2006 and 09.08.2007 issued under section 4 and 6 of the Land Acquisition Act, 1894 followed by the award dated 22.07.2008 for the Village Chandawali and 29.07.2008 for the village Macchgarh. The possession of the land in Village Macchgarh was taken vide Kabja Karyavahi dated 07.08.2008 and in village Chandawali vide rapat dated 24.07.2008. Hence the possession of the land stands duly taken, therefore the lapse under section 24(2) of the Act of 2013 cannot be claimed and the petitions therefore deserves to be dismissed.

37. In *CWP No. 21227 of 2016*, the land was acquired vide notification dated 05.12.2005 and 13.03.2006 issued under section 4 and 6 of the Act of 1894 followed by award dated 25.05.2006 for the Extension of Industrial Growth Centre Bawal. The possession of the land was taken vide rapat dated 25.05.2006 and the land stands vested in the State.

38. In *CWP No. 21409 of 2016* the land was acquired vide notification dated 01.01.2002 and 18.12.2002 issued under section 4 and 6 of the Act of 1894 followed by award dated 16.12.2004 for the Development and utilization of land for sector 2, 3, 4, 5 and 6 Rohtak . The possession of the land was taken vide rapat no. 212 dated 16.12.2004 and admittedly the

compensation has already been received by the petitioners.

39. In **CWP No. 21764 of 2016**, the land was acquired vide notification dated 13.11.1981 and 03.02.1984 issued under section 4 and 6 of the Act of 1894 followed by award dated 14.03.1985 for the Development and Utilization of land at Gurgaon. The possession of the land stands taken vide rapat roznamcha.

40. In **CWP No. 5442 of 2017**, the land was acquired vide notification dated 20.04.1990 and 18.04.1991 issued under section 4 and 6 of the Act of 1894 followed by award dated 23.03.1993 for the Development and Utilization of land for Residential, Commercial Institutional Zone And open spaces in sector 44, 45 and 46 at Gurugram. The possession of the land stands taken vide rapat roznamcha no. 425 dated 23.03.1993 and admittedly the petitioner have taken the compensation amount.

41. In **CWP No. 21864 of 2017, 249 of 2017, 25622 of 2017**, the land was acquired vide notification dated 10.05.1989 and 09.05.1990 issued under section 4 and 6 of the Act of 1894 followed by award dated 07.05.1992 for the Development and Utilization of land for sector 6, 7 and 8 Panipat. The possession of the land stands taken vide rapat roznamcha no. 349 dated 07.05.1992 and thus in accordance with the principles discussed aforesaid, the writ petitions cannot survive.

42. In **CWP No. 15755 of 2017**, the land was acquired vide notification dated 27.01.2003 and 23.01.2004 issued under section 4 and 6 of the Act of 1894 followed by award dated 20.01.2006 for the Development and Utilization of land for Residential/Commercial Sector 18, 19 and 20 Part and Commercial Sector 17 (part) Rewari. The possession of the land stands taken vide rapat roznamcha no. 344 dated 20.01.2006 and thus accordingly the lapsing cannot be sought.

43. In **CWP No. 22202 of 2016**, the land was acquired vide notification dated 09.10.1973 and 01.10.1976 issued under section 4 and 6 of the Act of 1894 followed by award dated 19.09.1994 for the Development and Utilization of land for Residential Area in Sector 28 Faridabad. The possession of the land stands taken vide rapat roznamcha, thus the lapsing under section 24(2) of the Act of 2013 cannot be sought.

44. In **CWP No. 22491 of 2016**, the land was acquired vide notification dated 01.01.2002 and 30.12.2002 issued under section 4 and 6 of the Act of 1894 followed by award dated 29.12.2004 for the public purpose namely, Development and Utilization of land for Residential and Commercial Sector 6 Rohtak. The possession of the land stands taken vide rapat roznamcha no. 215 dated 29.12.2004 and the compensation amount has already been paid, thus both requirements are fulfilled, therefore the lapse under section 24(2) cannot be sought.

45. In **CWP No. 22936 of 2016, 5447 of 2017, 424 of 2017, 11405 of 2017 and 2344 of 2018**, the land was acquired vide notification dated 24.08.2000 and 22.08.2001 issued under section 4 and 6 of the Act of 1894 followed by award dated 21.07.2003 for the Development and Utilization of land for sector 57 Gurgaon. The possession of the land in CWP no. 22936 of 2016, 5447 of 2017, 11405 of 2003 and 2344 of 2018 stands taken vide rapat roznamcha no. 583 dated 21.07.2003 and in CWP no. 424 of 2017 the possession was taken vide rapat no. 738 dated 21.07.2003. Therefore, the possession stands taken and thus the lapsing under section 24(2) of the Act of 2013 cannot be sought.

46. In **CWP No. 23038 of 2016**, the land was acquired vide notification dated 18.10.2006 and 19.10.2006 issued under section 4 and 6 of the Act of 1894 followed by award dated 31.10.2007 for the Remodelling of

Model Town Drain. The possession of the land stands taken vide rapat roznamcha, thus the lapsing cannot be sought.

47. In **CWP No. 23195 of 2016, 3258 of 2017 and 25328 of 2016**, the land was acquired vide notification dated 19.10.2001 and 18.10.2002 issued under section 4 and 6 of the Act of 1894 followed by award dated 14.10.2004 for the Development and Utilization Residential and Commercial Sector 2 Sonipat. The possession of the land stands taken vide rapat roznamcha and thus the lapsing cannot be sought.

48. In **CWP No. 23586 of 2016**, the land was acquired vide notification dated 02.11.1983 issued under section 4 and 6 of the Act of 1894 followed by award dated 26.03.1985 for the Free allotment of residential plots to landless/ homeless harijans members of Backward classes. The possession of the land stands taken vide rapat roznamcha no. 365 dated 13.06.1989 and thus in view of the principles discussed above, the lapse under section 24(2) cannot be sought.

49. In **CWP No. 23648 of 2016**, the land was acquired vide notification dated 09.08.1977 and 07.03.1978 issued under section 4 and 6 of the Act of 1894 followed by award dated 22.06.1978 for the Development and Utilization of land as Disposal Works. The possession of the land stands taken vide rapat roznamcha dated 22.06.1978 and the 81.61% of the landowners have already taken the compensation amount and also the petitioners has also received the same. Therefore none of the requirement of lapsing is fulfilled and thus no ground survives in the petition.

50. In **CWP No. 23793 of 2016**, the land was acquired vide notification dated 22.03.1990 and 19.03.1991 issued under section 4 and 6 of the Act of 1894 followed by award dated 16.03.1993 for the Development and Utilization of land as Residential, Commercial, Institutional and

maintenance of open space at Gurgaon. The possession of the land stands taken vide rapat roznamcha no. 364 dated 16.03.1993, therefore petition under section 24(2) cannot sustain.

51. In **CWP No. 24057 of 2016**, the land was acquired vide notification dated 23.01.1990 and 18.01.1991 issued under section 4 and 6 of the Act of 1894 followed by award dated 27.03.1992 for the Development and Utilization of land for sector 4-A Rewari. The possession of the land stands taken vide rapat roznamcha no. 269 dated 27.03.1992, therefore the land vests in the Government after the possession has been taken, therefore no cause of action survives in the petition.

52. In **CWP No. 26140 of 2016**, the land was acquired vide notification dated 19.07.2002 and 17.07.2003 issued under section 4 and 6 of the Act of 1894 followed by award dated 16.07.2005 for the Residential and Commercial Rea sector 18 kaithal. The possession of the land stands taken vide rapat roznamcha no. 881 dated 16.07.2005 and thus the petition under section 24(2) does not survive.

53. In **CWP No. 25192 of 2017**, the land was acquired vide notification dated 15.05.1997 and 14.05.1998 issued under section 4 and 6 of the Act of 1894 followed by award dated 13.05.2000 for the Development and Utilization of land as Residential, Commercial and Institutional area sector 51 Gurugram . The possession of the land stands taken vide rapat roznamcha no. 412 dated 13.05.2000 and the compensation has already been received by the petitioner, therefore none of the grounds survive in the petition.

54. In **CWP No. 27034 of 2016**, the land was acquired vide notification dated 07.03.2002 and 14.03.2002 issued under section 4 and 6 of the Act of 1894 followed by award dated 04.10.2002 for the Construction of

road between Delhi-Rohtak road to Najafgarh road. The possession of the land stands taken vide rapat roznamcha dated 04.08.2002. 66.66% of the total compensation already stands disbursed.

55. In **CWP No. 27264 of 2016**, the land was acquired vide notification dated 14.08.2003 and 10.08.2004 issued under section 4 and 6 of the Act of 1894 followed by award dated 27.07.2006 for the Development and Utilization of Residential and Commercial Sector 9 Jhajjar. The possession of the land stands taken vide rapat roznamcha no. 875 dated 27.07.2006 and 85% of the total compensation disbursed to the land owners.

56. In **CWP No. 27284 of 2016**, the land was acquired vide notification dated 04.11.2003 and 03.11.2004 issued under section 4 and 6 of the Act of 1894 followed by award dated 31.01.2006 for the Development and Utilization of land for new residential and commercial and institutional sector at Pataudi at Gurgaon. The possession of the land stands taken vide rapat roznamcha no. 360 dated 31.01.2006 and thus, since the possession stands taken, the lapsing under section 24(2) cannot be sought.

57. In **CWP No. 2181 of 2017**, the land was acquired vide notification dated 04.12.2000 and 03.12.2001 issued under section 4 and 6 of the Act of 1894 followed by award dated 11.09.2003 for the Development and Utilization of land for residential, commercial and industrial area for sector 10, 11 and 12 (part) in Ambala Cant. The possession of the land stands taken vide rapat and thus the petition under section 24(2) does not survive.

58. In **2524 No. of 2017**, the land was acquired vide notification dated 27.09.2005 and 02.06.2006 issued under section 4 and 6 of the Act of 1894 followed by award dated 24.01.2007 for the setting up of Chaudhary Devi Lal Industrial Model Nagar, Manesar and for non structural facilities

and other public utilities. The possession of the land stands taken vide rapat roznamcha no. 318 dated 24.01.2007 and thus, the petition cannot survive in view of the principles laid down by the Apex Court.

59. In **CWP No. 2774 of 2017**, the land was acquired vide notification dated 21.01.1982 and 16.04.1984 issued under section 4 and 6 of the Act of 1894 followed by award dated 06.04.1985 for the Development and Utilization of land for residential and commercial area at Rewari. The possession of the land stands taken vide rapat roznamcha and thus the lapsing under section 24(2) cannot be sought.

60. In **CWP No. 3215 of 2015**, the land was acquired vide notification dated 20.01.2003 and 16.01.2004 issued under section 4 and 6 of the Act of 1894 followed by award dated 14.01.2006 for the Development of residential area of sector 8-19 Sonipat. The possession of the land stands taken vide rapat roznamcha and thus the lapsing under section 24(2) of the Act cannot be sought.

61. In **CWP No. 3226 of 2017**, the land was acquired vide notification dated 15.11.1994 and 05.04.1995 issued under section 4 and 6 of the Act of 1894 followed by award dated 03.04.1997 for setting up of IMT to be planned as integrated complex for Industrial, Residential, Institutional, Commercial, recreational and other public utilities in Manesar. The possession of the land stands taken vide rapat roznamcha dated 03.04.1997, therefore the lapsing under section 24(2) cannot be sought.

62. In **CWP Nos. 3567 of 2017, 10781 of 2017, 12618 of 2017, 16554 of 2017, 24584 of 2017, 27766 of 2017, 6009 of 2017, 7530 of 2017, 497 of 2018, 514 of 2018, 517 of 2018, 572 of 2018, 4062 of 2017, 4154 of 2017, 6051 of 2017, 6083 of 2017, 11775 of 2017, 17983 of 2017, 12450 of 2017**, the land was acquired vide notification dated 11.04.2002 and

08.04.2003 issued under section 4 and 6 of the Act of 1894 followed by award dated 06.04.2005 for the Development and Utilization of land for Residential, Commercial Sector 27-28, Rohtak in village Garhi Bohar, Kheri Sadh and Pehrawar. The possession of the land stands taken in Village Garhi Bohar vide rapat no. 415 dated 06.04.2005, in village Kheri Sadh vide rapat no. 385 dated 06.04.2005 and in village Pehrawar vide rapat no. 297 dated 06.04.2005. Therefore, since the possession stands taken by drawing panchnama in the aforesaid cases, nothing more survives in the petition in view of the judgment passed by the Hon'ble Court and thus deserves to be dismissed.

63. ***In CWP Nos. 4072 of 2017, 4073 of 2017, 4079 of 2017, 4080 of 2017, 4109 of 2017, 4110 of 2017, 15567 of 2017, 15567 of 2017, 4111 of 2017, 5357 of 2017, 5354 of 2017, 5363 of 2017, 6508 of 2017, 6521 of 2017, 4570 of 2017, 4597 of 2017, 7264 of 2017, 19715 of 2016, 10923 of 2017***, the land was acquired vide notification dated 30.11.2004 and 28.11.2005 issued under section 4 and 6 of the Act of 1894 followed by award dated 27.11.2007 for the Development and Utilization of land for Residential, commercial (part) Sirsa . The possession of the land stands taken vide rapat roznamcha no. 126 dated 27.11.2007 and thus, in view of the same, the petition under section 24(2) of the Act of 2013 cannot survive.

64. In ***CWP No. 23647 of 2017***, the land was acquired vide notification dated 04.03.1983 and 03.03.1986 issued under section 4 and 6 of the Act of 1894 followed by award dated 01.02.1988 for the Development and Utilization of land as Residential and Commercial area of Ambala City. The possession of the land stands taken vide rapat roznamcha dated 23.02.1988 and thus the land stands vested in the state.

65. In ***CWP No. 23794 of 2016***, the land was acquired vide

notification dated 06.01.2006 and 09.08.2006 issued under section 4 and 6 of the Act of 1894 followed by award dated 07.12.2006 for the Development and Utilization of land as Residential, Commercial Sector 6-7 adjoining to the proposed 60 mtr road at rewari. The possession of the land stands taken vide rapat roznamcha no. 297 dated 07.12.2006, therefore the acquisition cannot lapse in view of section 24(2) of the Act of 2013.

In the cases referred herein above, the possession of the land has already been taken by recording the same in the rapat roznamcha or panchnama and thus, one of the contingencies as prescribed in the Section 24(2) of the Act of 2013 stands duly negated and in view of para 99 and para 363 (3) of the judgment in Indore Development Authority v. Manoharlal (Supra), the lapse of acquisition cannot be claimed as one of the ingredient of section 24(2) goes and thus all the writ petitions deserves to be dismissed on this ground alone. As far as the compensation component is concerned, the landowners who have already received the compensation amount and/or in few cases have also filed reference for higher compensation amount and have even been allotted the plots under Rehabilitation and Resettlement Scheme, they have no locus to challenge the acquisition proceedings much less claiming the lapse of acquisition proceedings under section 24(2) of the Act of 2013. After having accepted the statutory benefits prescribed under the Land Acquisition Act, 1894 and/or also the benefits given under the Resettlement and Rehabilitation Policy, claiming the lapse of acquisition proceedings was never the contemplation of the legislature under section 24(2) of the Act of 2013.

The cases wherein the landowners have refused to accept the amount of compensation, it is relevant to quote here that Hon'ble Supreme Court has very categorically held that the obligation of the State to pay the

compensation is fulfilled by tendering the amount under section 31(1) of the Land Acquisition Act, 1894. The word 'paid' used in Section 24(2) of the Act of 2013 does not include the deposit of compensation in the court. While holding so, the Hon'ble Court has further laid down that the landowners who refused to accept compensation or who has sought reference for higher compensation 'cannot' claim that the acquisition proceedings has lapsed under section 24(2) of the Act of 2013. The Court has been apprised that in all the cases wherein the compensation has not been received by the landowners, the same is lying deposited in the account of Land Acquisition Collector and in view of the principles laid down by the Hon'ble Constitution Bench, the aforesaid writ petitions deserves to be dismissed.

66. In nutshell, in view of the principles laid down in the ***Indore Development Authority (Supra)***, i.e the acquisition can lapse only when both the requirements i.e. neither the possession was taken nor compensation was paid, needs to be fulfilled. But, if any of the requirement is fulfilled, the acquisition shall not lapse. Further in view of the ratio laid therein, entering of panchnama is a valid mode of taking possession of the land and amounts to taking 'physical possession' of the land under section 24(2) of the Act of 2013. In all the aforementioned cases the possession stands taken by way of rapat entry i.e. panchnama and the landowners did not take the compensation amount, though it was available with the land Acquisition Collector. Thus, none of the ingredients are fulfilled and therefore, no lapsing of acquisition can be sought.

Conclusions:

In view of the discussions made herein above and in terms of the judgment passed by the Constitutional Bench of the Supreme Court in

Indore Development Authority v. Manoharlal and others reported as AIR

2020 SC 1496, decided on 06.03.2020, we hold as follows:

I. Category I, cases are hereby dismissed being the ones wherein the lapse of the acquisition has been sought by the subsequent purchasers i.e. who has purchased the land issuance of notification under section 4 of the Land Acquisition Act, 1894, same being the void transaction since its inception. (*Reference in this regard made to Shiv Kumar and Anr v. Union of India and others 2019(10) SCC 229 and para 337 of the judgment in Indore Development Authority v. Manoharlal and others (supra)*)

II. Category II, cases are dismissed on account that after excluding the period during which the dispossession of the landowners was stayed thereby preventing the authorities from taking the possession of the acquired land, the condition of the award having been passed before the period of five years commencing from the date of enactment of Act of 2013 as prescribed under section 24(2) of the Act of 2013 is not fulfilled. (*Reference made to para 363(2) and (8) of Indore Development Authority v. Manoharlal and others (supra)*)

III. Category III, cases are dismissed as the landowners/petitioners therein have sought to revive the stale claims and the concluded proceedings by invoking section 24(2) of the Act of 2013. Once the land owners have failed in the earlier round of challenge to the acquisition proceedings, they are barred from questioning the legality of mode of taking possession or mode of depositing the compensation in order to invalidate the acquisition proceedings. (*Reference made to para 363 (9) of Indore Development Authority v. Manoharlal and others (supra)*)

IV. Category IV cases are dismissed as in all these cases the possession of the land stands duly taken by recording rapat roznamcha and the compensation in the case where the same has not been received by the landowners, stands deposited either in the Court or in the account of Land Acquisition Collector, thereby

implying that none of the contingencies as provided under section 24(2) survives and accordingly no lapse of the acquisition proceedings can be claimed. *(reference made to para 363(4), (5) and (7) of Indore Development Authority v. Manoharlal and others (supra))*

With the aforesaid observations/conclusions, all the aforesaid writ petitions are accordingly dismissed. Since the main petitions stand dismissed, all the pending applications stand decided. Interim order if any stands vacated.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

12.10.2020
Manoj Bhutani

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