

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

**Civil Writ Petition No. 1892 of 2021 (O&M)
Date of Decision: 28.01.2021**

Sheela Devi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Jai Bhagwan Sharma, Advocate
for the petitioner.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

JASWANT SINGH, J.

Through the instant writ petition, writ petitioner-*Sheela Devi* has sought quashing of acquisition proceedings in pursuance to Notification dated 29.08.2005 (**Annexure P-1**) *qua* residential house constructed by her on land situated in Khasra No. 476/22, Village & Tehsil Hansi, District Hissar bearing Hadbast No. 119 on the ground that acquisition stands lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “The Act, 2013”), as actual physical possession has not been taken till date.

[2] Sole argument raised before us by learned counsel for the petitioner is that till date actual physical possession has not been taken from her, and therefore, the acquisition is deemed to have lapsed on this account in view of Section 24(2) of the Act, 2013.

[3] We have heard learned counsel for the petitioner at length and have scrutinized the paper-book.

[3.1] Admittedly, the residential house of petitioner was acquired by the State Government vide Notification dated 29.08.2005 (**P-1**) issued for acquisition of Village Hansi bearing Hadbast No. 119 and Village Dhana bearing Hadbast No 128 at Tehsil Hansi District Hissar and possession was delivered to HUDA (now HSVP). It is further not in dispute that the Land Acquisition Collector, Hisar, had assessed the compensation vide award dated 03.08.2007 and the assessed amount has already been paid to the writ petitioner. It is further not in dispute that the acquisition proceedings *qua* her house were challenged by writ petitioner before this Court by filing CWP No. 1850 of 2003, titled “*Sheela Devi Vs State of Haryana and others*” and the said writ petition was dismissed vide order dated 14.11.2011.

[3.2] Once the case of writ petitioner is seen through the prism of aforesaid admitted facts, we have no iota of doubt that present writ petition is nothing but a gross abuse of process of law. Once the petitioner has accepted the assessed compensation then she is estopped by her own act and conduct to challenge the acquisition. Not only this, it is by now settled position of law that provisions of Section 24 of the Act, 2013 cannot be used to revive a dead or stale claim *moreso*, when in previous round of litigation challenge to same acquisition has failed. Furthermore, the issue raised in the present writ petition is no more *res integra* as meaning of “physical possession” as referred in section 24(2) of the Act, 2013 and effect of depositing of compensation by concerned authority, have been

considered in detail by a Five Judges Bench of Hon'ble Supreme Court in ***Indore Development Authority Versus Manoharlal And Ors. Etc., AIR 2020 SC 1496***, while answering question Nos. 4 & 6 raised therein. For ready reference, question Nos. 4 & 6 are reproduced hereunder:-

- “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?*
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.”*

[3.3] While answering question No. 4, Hon'ble Supreme Court held in paragraph No. 277 has held as under:-

- “ 277. *The court is alive to the fact that are a large number of cases where, after acquisition land has been handed over to various corporations, local authorities, acquiring bodies, etc. After depositing compensation (for the acquisition) those bodies and authorities have been handed possession of lands. They, in turn, after development of such acquired lands have handed over properties; third party interests have intervened and now declaration is sought under the cover of section 24(2) to invalidate all such actions. As held by us, section 24 does not intend to cover such cases at all and such gross misuse of the provisions of law must stop. Title once vested, cannot be obliterated, without an express legal provision; in any case, even if the landowners' argument that after possession too, in case of non-payment of compensation, the acquisition would lapse, were for arguments' sake, be accepted, these third party owners would be deprived of their lands, lawfully acquired by them, without compensation of any sort. Thus, we have no hesitation to overrule the*

decisions in Velaxan Kumar (supra) and Narmada Bachao Andolan (supra), with regard to mode of taking possession. We hold that drawing of Panchnama of taking possession is the mode of taking possession in land acquisition cases, thereupon land vests in the State and any re-entry or retaining the possession thereafter is unlawful and does not inure for conferring benefits under section 24(2) of the Act of 2013.”

[3.4] As far as question No. 6 is concerned, this question was answered by Hon’ble Supreme Court in paragraph no. 359, which reads as under:

“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.”*

[3.5] Finally while concluding the judgment, Hon’ble Supreme Court answered all the questions raised before it, in the following manner in paragraph 363:-

“363. *In view of the aforesaid discussion, we answer the questions as under:-*

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.”*

(Emphasis Supplied)

[4] Thus, a bare perusal of the Judgment passed by Hon’ble Supreme Court in **Indore Development authority’s case (supra)** leaves no manner of doubt that once a rapat (report) is entered in the revenue record whereby possession has been shown to be taken on papers by the acquiring authority, then it is deemed to be as good as taking over of actual physical possession. Further, the Hon’ble Supreme Court has already held that a stale and time-barred claim cannot be revived by invoking the provision of the Act, 2013. Hence, even non-deposit of compensation in a designated account will not lead to lapse of acquisition.

[5] Consequently, in view of the facts and circumstances observed above as well as law laid down by Hon’ble Supreme Court in **Indore Development Authority’s case (supra)**, there is no merit in the instant writ petition and the same is hereby ordered to be **dismissed**.

(JASWANT SINGH)
JUDGE

January 28, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

Whether Speaking/reasoned	Yes
Whether Reportable	Yes