

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 11143 of 2014 (O&M)

Date of Decision: 03.02.2022

Ratti Ram and others Petitioners
Versus
State of Haryana and others ... Respondents

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

Present:- Mr. M.L Sharma, Advocate, for the petitioners.

Mr. Ankur Mittal, Addl. Advocate General, Haryana with
Mr. Saurabh Mago, Assistant Advocate General Haryana,
Ms. Kushaldeep Kaur, Advocate,
Mr. Shivam Garg, Advocate and
Mr. Abhishek Sharma, Advocate for the respondents.

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

RAVI SHANKER JHA, CHIEF JUSTICE

The petitioners have filed instant writ petition seeking issuance of writ in the nature of Certiorari for quashing the notification dated 17.09.2004 and 27.10.2004 issued under section 4 and section 6 of the Land Acquisition Act 1894 in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as more than 5 years have passed since the announcement of award on 21.02.2006 (in the prayer clause, it is wrongly claimed to be of 21.02.2006 whereas it was announced on 09.03.2006) and physical possession of the land till date continues to remain with the petitioners, coupled with the fact that once the urgency clause is already been quashed by this Court in Civil Writ Petition No. 17108 of 2004 titled as *Tara Chand and others Vs. State of Haryana and others* since under the garb of public purpose, the land of the

petitioners is being acquired to sub serve and accommodate the needs of the private builders by the official respondents. Further, the petitioners have sought quashing of the order dated 09.04.2013 passed by the respondents thereby rejecting the representation filed by the land owners/petitioners.

2. In total 92 petitioners have approached this Court by filing the instant writ petition and have stated themselves to be owners of the land situated in Khewat Nos. 25, 26, 27, 28, 36 and 37 in Village Lakhnaula, Tehsil and District Gurgaon. The land of the petitioners was notified for acquisition vide notification dated 17.09.2004 issued under Section 4 read with Section 17 (2)(c) of the Land Acquisition Act, 1894 for the public purpose namely for setting up of Chaudhary Devi Lal Model Township, Phase-V, Manesar, to be planned and developed as an integrated complex for Industrial, Institutional, Commercial, Recreational and other public utilities on land measuring 956 acres 5 kanal 18 marla of villages Nabada Fatehpur, Naurangpur, Manesar, Lakhnoula, Naharpur Kasan and Shikopur, Tehsil and District Gurugram. The landowners were put under the psycho fear of losing title over the lands by being paid a paltry compensation at Government rates and in the year 2005 they were induced to enter into distress sale in favour of private builders. The award for the acquired land was announced on 09.03.2006 and the petitioners in the instant writ petition were compelled for accepting the compensation, which they are willing to return as the actual physical cultivating possession of the land remains with the petitioners only. In the meantime, the landowners/petitioners challenge the notification issued under Section 4 by invocation of urgency clause under Section 17 of the Act of 1894 by filing Civil Writ Petition No. 7654 of 2006 and 6892 of 2006 which was disposed of by this Court in a bunch of 84 writ petitions vide order dated 16.04.2009 with leading case being Civil Writ

Petition No. 17108 of 2004 titled as *Tara Chand and others Vs. State of Haryana and others*. This Court had categorized the writ petitions in four different categories, the writ petitions filed after the announcement of the award and by the petitioners who have received the compensation were dismissed. Further, the petitions where the land was purchased after issuance of notification under Section 4, were also dismissed and the other petitions which were not falling in the aforesaid categories were allowed as the notifications issued under Section 4 and Section 6 of the Act of 1894 were quashed and State of Haryana was given liberty to initiate fresh process of acquisition after applying with the provisions of the land Acquisition Act, 1894. The said order was assailed before the Division Bench of this Court by State of Haryana in Letters Patent Appeal No. 504 of 2010 and other connected appeals, which was disposed of vide common judgment dated 28.01.2011 thereby, giving liberty to the State to proceed from the Stage of issuance of notification dated 17.09.2004 under Section 4 of the Act of 1894.

3. Thereafter, the petitioners submitted a representation dated 04.09.2012 to Commissioner and Secretary, Government of Haryana, Department of Industries requesting release of their lands from the acquisition proceedings and since no action was taken on the representation filed by the petitioners, they approached this Court by filing writ petitions vide Nos. 23459 of 2012, 23476 of 2012, 4171 of 2013, 4501 of 2013, 4507 of 2013, 4509 of 2013, 4514 of 2013, 4515 of 2013, 4517 of 2013, 5393 of 2013, 5429 of 2013, 5430 of 2013 & 24380 of 2013. The challenge to the acquisition proceedings was primarily on the ground that they were forced to execute sale deeds in favour of the private builders/developers soon after issuance of notification dated 17.09.2004 under Section 4 of the Act of 1894 as they were put under fear of losing their title on payment of Government

rates which were far less than the actual market value. This Court while considering the contention raised by the petitioners vide order dated 15.07.2013 modified on 18.09.2013 observed that there are disputed question of facts in the case at hand and thus is not inclined to accept or hold the trial in relation thereto, however, directed the competent authority to consider and examine the allegations contained in the representation in accordance with law.

4. Pursuant to the aforesaid directions, the representations filed by the petitioners were considered by the State and vide speaking order dated 09.04.2013 passed by Additional Chief Secretary to Government of Haryana, Industries and Commerce Department, the allegations leveled by the petitioners were found without any substance and accordingly, the representations were rejected. In the instant writ petition, the petitioners have now challenged the said order and also sought declaration to the effect that the acquisition proceedings have lapsed in view of the provisions of Section 24(2) of the Act of 2013.

5. As per the case put forth by the petitioners, though the award was announced way back on 09.03.2006, till date the possession of the land has not been taken by the State and they are in the actual physical possession of the land. They further submit that even though the compensation has been received by them, they are ready to deposit it back as they were compelled to receive the same even though they were not ready to accept the same. Thus the quashing of the acquisition proceedings has been claimed on account on non-taking of possession of the land in question.

6. Pursuant to issuance of notice of motion, the respondents have filed a affidavit to controvert the pleas raised by the petitioners wherein while referring to the interpretation made by the Hon'ble Supreme Court of

India, Mr. Ankur Mittal, learned Additional Advocate General, Haryana has pleaded that the possession of the land stands taken by recording Rapat no. 650 dated 09.03.2006 and 902 dated 31.05.2013. The mutation of the land in question also stands sanctioned in favour of HSIIDC on 27.06.2013. The compensation amount of the land involved in the petition has already been received by the landowners except in some cases where part compensation has not been lifted by some of the landowners. The reference under section 18 of Act of 1894 has also been filed by the landowners in the court of Addl. District Judge, Gurugram after receiving the initial compensation amount. He submits that the complaint has also been filed against few of the petitioners who are illegally cultivating the land of HSIIDC vide letter dated 13.12.2013, 20.12.2014, 09.05.2014 and 10.07.2014. He has drawn our attention towards the fact that few of the landowners earlier approached this court by challenging the acquisition proceedings and same was dismissed vide order dated 16.04.2009. The relevant part of the order is reproduced herein below:-

(B) *Writ petitions where the petitioners or some of the petitioners have received compensation.*

By accepting compensation, a landowner accepts the legality of the “process for acquisition” and would, therefore, in may considered opinion be stopped from invoking the provisions of Articles 226 of the constitution of India. As consequence the writ petition would have to be dismissed qua those petitioners, who have received compensation. The writ petitions where the petitioners or some of them have received compensation are enumerated below.

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7. *CWP No. 7654 of 2006*
Sira Ram and others Vs. State of Haryana and others

Out of 19 petitioners, petitioner no. 1 (Sis Ram S/o Hardev) petitioner no. 2 (Deena Ram S/o Ram Pat) petitioner No. 3 (Ishwar Singh S/o Ram Baksh) petitioner no. 4 (Vijay Pal s/o

Ram Baksh) petitioner no. 5 (Chattar Pal S/o Ram Baksh) petitioner no. 6 (Om Pal S/o Ram Baksh) petitioner no. 9 (Kala D/o Ram Pat) petitioner no. 11 (Ram Niwas S/o Harnarain) petitioner no. 12 (Hari Ram S/o Swaroop) petitioner no. 13 (Krishan Gopal S/o Hari Ram) have received the compensation. The writ petition is dismissed qua these petitioners as they have received compensation and is also dismissed qua all the petitioners as the writ petition falls in category 'A' i.e. was filed after the award.

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11. CWP No. 6892 of 2006

Mavasi Ram and others V. State of Haryana and others

Out of 8 petitioners petitioner no. 5 (Nand Kishore S/o Ram Kishan) petitioner no. 1 (Mavasi Ram S/o Shankar) petitioner no. 2 (Rati Ram S/o Shankar) petitioner no. 7 (Ramesh S/o Sadar ram) petitioner no. 8 (Krishan S/o Sada Ram) have received compensation. The writ petition is dismissed qua these petitioners as they have received compensation and is also dismissed qua all the petitioners as it falls in category 'A' i.e. was filed after the award.

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In view of what has been stated herein above, the writ petitioners, other than those that have been dismissed or partly dismissed are allowed. The notifications issued under Section 4 and 6 of the Act and all subsequent proceedings emanating there from are quashing with respect of these writ petitions with liberty to the State of Haryana to initiate a fresh process of acquisition after complying with the provisions of the land Acquisition Act.

No order as to costs."

7. He submits that in view of the aforementioned facts, none of the contingencies provided in section 24(2) of Act of 2013 are fulfilled as the possession of the land stands taken and the compensation amount stands admittedly paid. As regards the speaking order impugned by the petitioners, he submits that the same is self-speaking as was passed after giving due opportunity of hearing to the petitioners and has supported the same in his arguments.

8. In view of the prayer made by the petitioners in the instant writ petition, we deem it appropriate to deal with the contentions of the petitioners in two parts firstly, as regards the challenge made to the order

dated 09.04.2013 and secondly, with respect to deemed lapsing under Section 24(2) of the Act of 2013.

A. Challenge made to the order dated 09.04.2013

9. We would like to first examine the speaking order dated 09.04.2013 passed by the Additional Chief Secretary, Industries and Commerce Department. The gist of the allegations raised by the petitioners were that pursuant to the issuance of notifications under Section 4 & 6 of the Land Acquisition Act, 1894, by invoking the urgency provisions of Section 17 of the Act, the land owner were put under the psycho fear of losing their title of land of the payment of Government rates which were far less than the actual market rate and they were induce to enter into distress sales in favour of the private builders/developers. In addition to this, the grievances were raised that the acquired land is being released to benefit the colonizers/developers and further, the road has been realigned for extending benefit to private builders and since the part of the acquired land has been transferred to HUDA for construction of roads, this amounts to change of the public purpose of acquisition. All these allegations/grievances were dealt by the Government under four different heads namely (a) Inducement to distress sales, (b) Release of acquired land to benefit the colonizers/developers, (c) Realignment of the road, (d) Change of public purpose of the acquisition.

10. As regards the first issue i.e. ***Inducement to distress sales***; respondent no. 6 had recorded the contention of the petitioners as well as HSIIDC from Para A.1 to A.13 of the Speaking order. The perusal of the same would show that the thrust of the arguments raised by the petitioners before the authority was that the petitioners were induced to sell their land to

the private builders as they were made to understand that the Government would be paying the compensation amount of Rs. 4 to 5 lacs per acre whereas, they were offered an amount varying between Rs. 20-25 lacs per acre by the private parties. It was their specific contention that the Revenue Department should not have allowed the execution of sale deeds after the land had been notified for acquisition and the Government should have ensure that the purchaser of the subject land, which was subject matter of the acquisition, were required to obtain NOC before sale/purchase of such land. As against the contentions raised by the petitioners, it was the specific stand of the department as well as HSIIDC that the petitioners has executed sale deeds in favour of the private parties of their own volition for the amounts settled through mutual agreements. The table showing the details of the land sold by the petitioners as noticed in the speaking order along with their price is given herein below:-

Sr. No.	CWP No.	Land sold (Kanal-Marla)	Total sale price (In Rs.)	Price per acre (in Rs.)
	20932 of 2012	90-18	2,35,77,188/-	20,75,000/-
	21246 of 2012	8-13.5	22,77,188/-	21,00,000/-
	21247 of 2012	66-13	1,87,45,315/-	22,50,000/-
	21249 of 2012	47-18	1,24,24,065/-	20,75,000/-
	21250 of 2012	31-7	83,90,781/-	21,41,188/-
	21254 of 2012	34-13.5	42,25,780/- and 47,08,290/-	20,61,213/-
	21255 of 2012	98-2	2,54,44,690/-	20,75,000/-
	21257 of 2012	54-8	80,92,500/-	11,90,073/-
	21275 of 2012	25-3	64,44,688/-	20,50,000/-

11. It was further contended by the Department that the sales were made before the date of announcement of award and by the time sale deeds were executed, the Government had already announced the minimum floor

prices and in any case the gross compensation amount paid per acre including the annuity amount was in excess to the sale consideration in all the above cases. it was further, stated by HSIIDC that the Government had acquired and taken possession of about 665 acres of land in respect of which the acquisition proceedings were upheld by this Court vide order dated 16.04.2009 passed in the bunch of writ petitions with leading case being CWP No. 17108 of 2004 and no part of the land out of said 665 acres had been released by the Government in favour of any developer/land owner. It was specifically contended that the petitioners sold their land in the year 2005 and the award was announced on 09.03.2006 whereas they approached the Court in the year 2012-2013. By that time most of the purchasers of subject land had availed the compensation amount as the interested persons which show that the petitioners were aware of the rate of compensation awarded and yet never challenged the acquisition proceeding for more than 6 years after its completion. It was further observed that some of the petitioners had earlier approached this Court by challenging the acquisition proceedings and their writ petitions were dismissed vide order dated 16.04.2009 on the ground that either the petitioners had lifted the compensation amount or the writ petition was filed after the announcement of award.

12. While taking into account the submissions made by the petitioners as well as the department, it was concluded in Para A.14 of the Speaking order that the land was sold by the petitioners to private parties of their own will and volition and the contention of distress sale does not arise at all because even before the execution of the sale deeds, the Government had already announced the floor rates for the acquisition of the subject land, therefore, the petitioners had fair idea of the tentative amount of

compensation to be paid by the Government and thus, the plea of distress sale was rejected by the authority. The relevant paragraph of the speaking order is reproduced herein below for the ready reference:-

“...A.14 To sum-up the fact from the aforesaid details, it is concluded that the petitioners sold their land to private parties of their volition at rates determined through mutual settlement. The reason advanced by them for the sale of land that they apprehended that the Government would be paying a meager amount of compensation of about Rs. 4.00 to 5.00 lakh per acre has no legs to stand on especially when the Government had announced the floor rates for acquisition of subject land before they sold their land to private parties and they had a fair idea of the tentative amount of compensation to be paid by the Government Notwithstanding the same, these landowners had every opportunity to file references under Section 18 of the Act to seek enhancement of compensation, if they were not satisfied with the same. Some of these petitioners have gone through two rounds of litigation. It is intriguing to note that the present set of CWPs have been filed after a gap of about six years of the announcement of Award. It is beyond anybody’s compensation as to how an Advocate, who appeared on behalf of the petitioners, and who is supposed to know the law of the land, could raise an argument that the Government should have ensured that no landowner was allowed to sell his land which was under acquisition. The said contention does not draw any support under any law. The petitioners could not bring out any specific case in point in support of their contention that they were induced to sell the land under any duress. Hence, this contention is held to be unsustainable and as rightly observed by the Hon’ble High Court, in case they are in any manner aggrieved with the sale of their land to the third parties, they should approach the Civil Court of competent jurisdiction to agitate their grievance in this behalf...”

13. With respect to second issue i.e. “***Release of acquired land to benefit the colonizers/developers***”, the contentions of the parties were noticed in Para B.1 to B.3 of the Speaking order. It was the case of the petitioners that the Government machinery has connived with the purchaser i.e. builders/colonizers for the land transactions with an understanding that government would release the land subsequently in their favour after completion of the acquisition proceedings. While dealing with the aforesaid contention of the petitioners, the reference was made to the chronological facts with respect to the acquisition proceedings which are reproduced herein below:-

- “...(i) *Notification under Section 4 was issued on 17.09.2004 for acquisition of 956 acre 5 kanal 18 marla of land;*
- (ii) *Declaration under Section 6 was issued on 27.10.2004 for the entire land included in the Section 4 Notification;*
- (iii) *The award was announced by the Land Acquisition Collector in respect of the entire land on 09.03.2006 and physical possession of land; excepting 9 acre 2 kanal 14 marla of village Lakhnaula and Naharpur Kasan, Tehsil and District Gurgaon, on which about 55 houses and shops had been constructed, was taken by the LAC vide Rapat No. 654 dated 09.03.2006;*
- (iv) *The said 9 acre 2 kanal 14 marla of village Lakhnaula and Naharpur Kasan, of which physical possession had not been taken, was released by the Government vide Section 48 Notification dated 06.04.2007 keeping in view that about 55 houses and shops had been constructed on this portion of land;*
- (v) *The position underwent a change with the announcement of order dated 16.04.2009 by the Hon’ble High Court whereby the acquisition proceedings were quashed in respect of about 230 acres land (details given under para 10 above);*

- (vi) *The acquiring agency remained in possession of the said 665 acres of land and further acquired about another 41 acres land pursuant to the proceedings undertaken in furtherance of the part relief granted by the Hon'ble High Court vide its order dated 28.01.2011 in one set of LPAs filed by the State, thus taking the total land to 706 acres;*
- (vii) *The Industries Department/HSIIDC has not released any parcel of land in favour of any party out of the above 706 acres of land of which it has been in possession;*
- (viii) *Out of 57 acre 01 Kanal 16 Marla land sold by the petitioners (ref. table under para A.6 above), it has been found that 12 Acres 7 Kanal 13 Marla (say about 13 Acres) land sold by them did not form a part of the acquisition proceedings of 956 acres. The remaining about 44 acres land formed a part of the 706 acres of land in possession of the HSIIDC, of which no part has been released in favour of any of the purchasers..."*

14. In addition to the aforesaid, information was also sought by Respondent no. 6 from the Town and Country Planning, as per which 8 licenses were granted in the area in question and one application was under process at that time. It was noticed that all the licenses were granted at the different points in time between 24.08.2009 and 31.03.2013, involving a total land of 44.1868 acres. **This area included 7.5 acres of land which did not form part of the 956 acres acquisition proceedings initiated vide notification dated 17.09.2004 issued under Section 4 of the Act of 1894. Further, it included about 36.5 acres of area which formed part of 230 acres of land in respect of which the acquisition proceedings were quashed by this Court.** This revealed that the State had not released any part of the land in favour of private builders/colonizers and only such part of the land formed part of licensed area qua which the acquisition proceedings

were quashed by this Court vide order dated 16.04.2009. Accordingly, the contention of the petitioners as regards extending favour to the private builders/colonizers was rejected by the authority by making following observations:-

“...B.4 As mentioned under Para 10 above, the acquisition proceedings qua about 230 acres of land out of the said acquisition involving 956 acres land stood quashed by the orders dated 16.04.2009 of the Hon’ble High Court. Further, no directions had been issued restraining creation of any third party rights in the subject land. As a result the landowners were free to sell the subject land to any party or enter into collaboration agreements of whatever nature qua this land. The acquiring department had no powers to stop any transactions qua this land post 16.04.2009 orders. However, it is correct that the Industries Department has taken due cognizance of these licenses and excluded the land under the said licenses from its fresh acquisition notification dated 24.12.2013, as it cannot lose sight of the rights created in these entities following the due process of law.

B.5 It appears from the above details that the petitioners are feeling agitated about the whole issue primarily for the reason that some of the landowners qua whom the acquisition proceedings were quashed by the Hon’ble Court have been able to make good money by selling portions of their land/collaborating with the developers, while those, whose land formed a part of the 706 acres in possession of the HSIIDC, have not been able to earn identical gains, especially when no portion, whatsoever, of the acquired land has been released by the Government/HSIIDC in favour of any third party. While one cannot grudge their grievance on this account, but any such discrimination is not the creation of the acquiring department. It is clear from the facts given in

this behalf that no fraud, as alleged, has been committed by the Government upon the petitioners. As such the allegations made out by the petitioners on this ground are found to be without any merits...”

15. The third grievance of the petitioners before Respondent No. 6 was with respect to the “**Re-alignment of the Development Plan Road**” alleging that the Department of Town and Country Planning had re-aligned the Development Plan Road passing through Village Lakhnaula in such a manner as to help the private builders/ developers. For dealing with the aforesaid grievance of the petitioners, the Respondent no. 6 had called for the report from Senior Town Planner, Gurgaon and he explained the background as well as necessity of re-aligning the road in the presence of the petitioners. The necessity of re-aligning the road as explained by STP, Gurgaon and as noticed in the speaking order is reproduced herein below:-

“...C.2 The STP, Gurgaon displayed the original alignment as well as the revised alignment of the said Development Plan Road, duly marked on the Development Plan as also on the satellite imagery of the area. He explained the background and necessity for realignment of the said road as under:-

- (i) It was observed by the Department that certain Development Plan Roads, were not feasible for implementation in view of the existing residential and other structures on ground in the alignment of these roads;*
- (ii) The Department of Town and Country Planning constituted a committee on 20.11.2009 under the Chairmanship of Chief Coordinator Planning (NCR), Haryana, with Senior Town Planner, Gurgaon, Senior Town Planner, Gurgaon, as its members, to study and suggest alternate alignment*

of the following roads of Final Development Plan of GMUC-2021 A.D. which were not feasible owing to existing construction/ground realities;

(a) Sector dividing Road Sector - 92 & Open Space;

(b) Sector dividing road Sector - 81-81-A & Open Space;

(c) Sector dividing Road Sector - 92, 93, 94 & 95; and

(d) Sector dividing Road Sector - 84 & 85.

(iii) The issue under consideration in these matters pertained to the Sector dividing road of Sectors 81-81-A & Open Space. Subsequently, in view of the decision taken in the meeting held on 07.04.2011 under the Chairmanship of the Director General, Town and Country Planning Department, Haryana, another committee under the Chairmanship of the Administrator (HUDA) with the Senior Town Planner, Gurgaon, Senior Town Planner, HUDA, Superintending Engineer, HUDA, Gurgaon and Divisional Town Planner, Gurgaon, as its members, was constituted to re-examine these proposals and send fresh proposals with their recommendations.

(iv) A meeting was held under the Chairmanship of Administrator (HUDA) on 04.08.2011 to explore the possibilities of re-alignment of above mentioned Sector Roads of Final Development Plan of GMUC – 2025AD. As regards the Sector Road dividing Sectors 81-81A and open spaces, it was observed as under:-

“2. Sector Dividing Road, Sector 81-81-A & Open Space:

Recommendation of earlier committee

In Sector 81 during site visit, Committee found that an old Dhani in the name of Meer

Ki Dhani is existing in Khasra No. 29//11 min and 12 min in the revenue estate of Village Lakhanaula, award of which is not yet announced. As major part of this old Dhani is coming in the road alignment, as FDP GMUC-2021 AD. Hence, the save this Dhani the alignment of the sector road needs to be re-aligned in such a manner, that it will affect minimum existing structures. Constructions existing in proximity of this dhani have also been shown in the attached plan which clearly shows that proposed re-alignment affects minimum existing structures:-

Recommendations/suggestions of New Committee

The committee agrees with the proposal of earlier committee and recommends approval of this re-alignment as shown in the attached plan. It is pertinent to mention here that name of Dhani mentioned above as Meer Ki Dhani is actually named as Tara Chand Ki Dhani.”

- (v) *Accordingly, it was decided in the above meeting that, as majority of all the sector roads of Sectors 81 to 95 already stood acquired and construction work was in full swing, these re-alignments may be approved at the earliest and acquired so that road network of Sectors 81 to 95 could be completed. Accordingly, the State Government in the Town and Country Planning Department approved the above re-alignment and the Department requested the District Town Planner, Gurgaon to submit the said sectoral plans incorporating the realignment as proposed.*

16. The sum and substance of the report of STP, Gurgaon was that the necessity of re-aligning the road had arisen owing to the fact that it was not feasible to work on the development of road without demolition of the residential structures existing on the alignment. In order to save the residential structures, the decision was taken to re-align the road and accordingly, the plan was revised. In this regard reference is also made to the finding of respondent no. 6 on the aforesaid issue.

*‘.....C.5 Findings
Keeping in view the aforesaid details, it is clear that the said Development Plan Road had to be re-aligned for the reason as it was not feasible to work on the same without demolition of the residential houses existing in the said alignment on ground. The Department was keep to protect these existing residential houses of “Tara Chand ki Dhani” to the extent feasible and hence took recourse to the re-alignment of the said road. The re-alignment was not meant to extend any benefit to any colonizer/developer. Accordingly, it is held that the contention of the petitioners that the re-alignment of road was altered in such a manner as to help the private builders/developers is found to be without any basis and not maintainable. A copy of the minutes of the meeting held on 0___.08.2011 is enclosed as Annexure C/1 with the order. A copy of the layout plan showing the original alignment of the road and the revised alignment of the Sector Dividing Road of Sector 81-81A and open spaces is also enclosed as Annexure D/2 with this order. As such, the allegations raised by the petitioners in this behalf is not found to be correct in any manner.*

17. While dealing with the plea of the petitioners with respect to the change of public purpose of the land acquired by Industries Department by

transferring part of the acquired land for roads to HUDA, the elaborate discussion has been made in para D.1 to D.6 of the speaking order by explaining the need to develop the road in accordance with the Development Plan which would de-congest the traffic on the roads and would serve as a life line for the Industrial Township proposed to be developed. Accordingly, by observing that the construction of roads is also a public purpose, the contention as regards the change in public purpose was also rejected.

18. While challenging the speaking order, the petitioners have raised similar contentions in the instant petition as were raised before the concerned authority. Suffice to mention here that the petitioners were relegated to the competent authority for redressal of their grievances based upon the fact that the case in hand involved certain disputed questions of facts. The examination of the speaking order reveals that the concerned authority has taken into consideration all the pleas raised by the petitioners, due opportunity of hearing was granted and after taking into account all the relevant material placed before it, has denied the allegations leveled by the petitioners thereby questioning the validity of the entire acquisition proceedings. We have carefully gone through each and every word of the speaking order and record our satisfaction that the speaking order does not suffers from any infirmity and the contentions of the petitioners have been dealt in the right manner. The reasons for our agreement with the speaking order are discussed in the subsequent paragraphs.

19. With respect to the issue of “Inducement to Distress Sales”, the grievance of the petitioners is that they were induced to sell the land by the private builders on the pretext that the land is being acquired and they will be given lesser rates of compensation around Rs 4-5 lakhs per acre. The said contention falls flat simply on the ground that before the sale deeds were

executed the Chief Minister had already made public announcement of the floor rates of the acquisition and the compensation package which in any case was exceeding the sale consideration offered to the landowners. Despite it being so, the landowners had chosen to sell their holdings to the private builders pending the acquisition proceedings. There would have been some substance in the arguments raised by the petitioners if at all it could have been proved that the land which was sold by them to private builders was eventually released from the acquisition proceedings. However, the facts of the case speak otherwise as the persons to whom the land was sold by the landowners have already received the compensation. No land was released in their favour by the State Government which is evident from the fact that out of total 956 acres notified under section 4 of Act of 1894, the acquisition proceedings qua 230 acres of land was quashed by this court vide order dated 16.04.2009 and 9 acres 2 kanal 14 marla land was released under section 48 of Land Acquisition Act 1894 on account of existing houses and shops on the land. Rest of the land i.e. 665 acres remained in the possession of the State, out of which no parcel of land has been released. Even out of total 57 Acres 1 Kanal 16 Marla land claimed by the petitioners, 12 Acres 7 Kanal 13 Marla does not even form part of the acquisition proceedings of 956 acres and rest of the land is acquired land and no parcel of same has been released. Even the record called from Town and Country Planning department as regards the grant of licences in the area in question revealed that total 8 licenses were granted in the area in question and one application was under process. It was noticed that all the licenses were granted at the different points in time between 24.08.2009 and 31.03.2013, involving a total land of 44.1868 acres. **This area included 7.5 acres of land which did not form part of the 956 acres acquisition proceedings initiated vide**

notification dated 17.09.2004 issued under Section 4 of the Act of 1894.

Further, it included about 36.5 acres of area which formed part of 230 acres of land in respect of which the acquisition proceedings were

quashed by this Court. This further shows that the State had not released any part of the land in favour of private builders/colonizers and only such part of the land formed part of licensed area qua which the acquisition proceedings were quashed by this Court vide order dated 16.04.2009. The land after the acquisition proceedings have quashed can be used for any purpose and any licence granted to the builder for such land cannot be clothed with mala fides.

20. Thus, the facts are ante-thesis to what has been pleaded by the petitioners because if the allegations raised by the petitioners are considered to be true, the ultimate effect of the entire exercise would have been the release of land in favour of private builders, however, in the case at hand no such release has been made which is enough to show that the land was sold by the petitioners of their will and volition and even if there was any inducement by the builders, it a matter of dispute between the landowners and their vendee, as any transaction between the landowners and their vendee would not impede the acquisition proceedings and the purpose for the which the land has been acquired. The “volition” of the landowners and the petitioners in selling their landholdings is further proved from the fact that they waited for 6 years to challenge the acquisition proceedings on this ground or even avail alternate remedies available to them. The aforesaid facts collectively are enough to show that the ground of challenge to acquisition proceedings based upon “inducement to distress sales” is meritless and without any foundation. Moreover, in the reply filed on behalf of the State, the details of the payment of compensation to the landowners

has been provided in Annexure R-1 which shows that same was received soon after the announcement of the award which implies that the fate of acquisition proceedings was duly accepted by the petitioners. Even those petitioners have also re-agitated the plea of “distress sales” whose writ petitions were already dismissed by this court on earlier occasion vide order dated 16.04.2009, which proves that the instant petition is merely an afterthought.

21. The plea of the petitioners that the since revenue officers did not object for the registration of sale deeds, therefore, it is sufficient to show the involvement of the government machinery though appears to be attractive but is absolutely misconceived and reminds us of the saying “*pot calling the kettle black*”. The State machinery though works through its officers, however, for any acts done by the officers against the law and beyond its competence would not give the other party who is himself part of such illegal act a handle to say that State Machinery in its entirety is involved. It is in order to cater such situations only that the Scheme of Act of 1894 as well as the judgments pronounced by the courts from time to time are categorical that any encumbrance created on the land after initiation of notification under section 4 of Act of 1894 and any sale made after section 4 notification would not bind the state. Therefore, while rejecting the pleas raised by the petitioners, we uphold the findings of the respondent no. 6 with respect to the grievance of “inducement to distress sales” raised by the petitioners.

22. As already discussed above that the facts of the case are clear and categorical that no benefit has been extended to the private builders, therefore, we are uphold the findings given in the speaking order denying the

allegations of the petitioners of extending any sort of benefits to the private builders/ colonizers.

23. The third grievance of the petitioners was with respect to the change in alignment of the development plan road which again as per the petitioners has been done to extend benefit to the private builders. While rejecting the said contention of the petitioners, the reliance was placed on the report of Senior Town Planner, Gurgaon explaining the reasons of realignment of the Development plan road. We have perused the report as reproduced in the speaking order and from perusal of same it transpires that the reason for the re-alignment of road was owing to the reason that there existed residential and other structures in the alignment of the road due to which its implementation was difficult. In order to suggest the alternate alignment of the roads, a committee was constituted by the Department of Town and Country Planning on 20.11.2009 under the Chairmanship of Chief Co-ordinator Planning (NCR), Haryana and after due deliberations the decision was taken to re-align the roads. The report of Senior Town Planner, Gurgaon as noticed above is self-explanatory and cannot be doubted especially when the petitioners have not disputed the correctness of any of the fact given in the report in the writ petition. Even otherwise, the planning and development is the forte of the experts and the manner in which development is to be executed is not the domain, which the courts have to ponder upon. If after due deliberations the committee had reached to the conclusion of re-aligning the road backed with certain reasons, there is no point of doubting the said opinion of the experts and thus, the contention of the petitioners has been rightly dealt with in the speaking order.

23. The last limb of the argument raised by the petitioners is with respect to the change in public purpose as the land acquired was transferred

to the HUDA for construction of roads which as per the petitioners was to facilitate the private colonies. In fact, as per the case pleaded by the petitioners, such transfer of land to HUDA was the triggering point when the petitioners realized that the acquisition proceedings were for the benefit of the private builders. In order to deal with this contention, it is necessary to understand that the development of infrastructure is not a single handed task, rather different state machineries bestowed with different obligations are the stake holders in the development process.

24. As far as case in hand is concerned, as has been contended by Mr. Ankur Mittal, Industrial Model Township, Manesar is being sought to be developed in different phases i.e. Phase-I to Phase-V and the development of the township commenced in the year 1997 with the acquisition of about 1800 acres land for Phase-I when the Manesar area was outside the Development Plan area. Subsequently, over time, it has become a part of the Gurgaon-Manesar Urban Complex, the Development Plans of which has been notified by the Town & Country Planning Department from time to time under the provisions of Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963. The Development Plan-2021 AD of GMUC dated 4th October, 2010 was superseded by the Development Plan-2025 published vide Haryana Government Gazette Notification no. CCP(NCR)/F.D.P. (G)/2011/1386 dated 24th May, 2011. The Development Plan-2025 of the GMUC was further revised with the publication of Development Plan-2031 published vide Haryana Government Gazette Notification no. CCP(NCR)/FDP-2031/GGN/2012/ 3541 dated 15th November, 2012.

25. Mr. Mittal has drawn our attention towards the fact that the development is carried out as per the provisions of Haryana Development

and Regulation of Urban Areas Act, 1975 (Act of 1975) and the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963 (Act of 1963). Under the aforesaid enactments development plans of towns are prepared. In terms of the development plan, wherein different land uses are prescribed, the licenses/change of land use is granted for development of residential plotted colonies, group housing colonies, commercial colonies, IT parks/cyber parks and cyber cities.

26. He further submits that a Development Plan comprises of various sectors with different land uses prescribed therein. A sector is generally bounded by 45 mtr/60 mtr wide sector dividing roads. As the development plans are prepared for a perspective period of 20 to 25 years, it is natural that ground conditions undergo changes by the time development plan proposals are actually implemented on ground. An endeavour is made to align the sector dividing roads strictly as per proposals of development plans. However, need for re-alignment of the Development Plan Roads arises at times on account of obstructions by existing extended village abadis, Dhanis, residential/industrial/ institutional structures in such alignment. These re-alignments are carried out on the basis of site inspections and recommendations of a Joint Site Inspection Committee (JSIC) constituted for the purpose. The Joint Site Inspection Committee (JSIC) is headed by the Administrator, HUDA with concerned DTP and LAO being its members. Further, JSIC also goes into merits of release of particular structures from the acquisition proceedings initiated for planned development of a sector by HUDA under HUDA Act, 1977 or by HSIIDC (for development of Industrial sectors and industrial estates). Based on the recommendations of JSIC, Town & Country Planning Department modifies the alignments of the sector dividing roads. The Development Plan of any

area provides for different land uses along with a circulation plan of roads for connectivity of the entire Plan area. The development plan seamlessly connects the entire urbanisable area through a number of connectivity arteries, known as the Development Plan roads and Sector roads. Once the plan is notified, it is followed by the preparation of Sectoral plans primarily comprising of road circulation plans.

27. The Urban Planning and Development, therefore, constitutes of two tiers of development process. The first tier caters to the provisions for and integration of town level services. These would typically comprised of (i) Circulation Roads seamlessly connecting the entire Development Plan Area, and (ii) City Level Trunk Infrastructure comprising of Trunk Water Supply Network, Water Treatment Plant, Trunk Sewerage Network, Sewage Treatment Plant, Trunk Storm Water Network, 220/400 KV Electric Sub-station etc. as well as city level social infrastructure viz., Stadiums, Colleges, Hospitals, City Level Parks etc. The second tier of urban Development relates to the individual agencies (comprising of public sector agencies e.g. HUDA/HSIIDC, and private colonizers and developers) who undertake development of infrastructure facilities within their notified/licensed areas. Both these tiers play a complementary role for completion of the urban development process. Any development effort by the Second tier alone in the absence of the First tier would only create stand alone and disjointed islands and defeat the very purpose of planned urban development.

28. As far as the first tier of development process is concerned, the responsibility is undertaken by the Town and Country Planning and Urban Estates Department which acquires the land, however, the responsibility for construction of the roads and development of the town level facilities is entrusted to HUDA. As far as HSIIDC is concerned, it is the nodal agency

for the State for Development of Industrial Infrastructure which undertakes the internal infrastructure development works within its Industrial Sectors and as far as the work of construction of road arteries connecting the HSIIDC area with the entire development plan is concerned, it is undertaken by HUDA. Accordingly, the HSIIDC make such land available to HUDA for construction of development plan roads so as to achieve seamless connectivity of the road circulation system as per the development plan of the area. Since, the land is developed by multiple public/private Sector agencies, they all get woven together through the 'integrated external services network' irrespective of the fact as to which agency takes the lead in development of any specific colony/sector. Accordingly, it is virtually impossible to pin-point the exact beneficiary of the services at any stage of the execution of the external development works. However, once fully executed, the general public residing within the urbanisable limits get benefited from the same. It is also important to note that all the facilities created by a Tier One agency ultimately remain available for the general public use and do not constitute or become the sole preserve of any individual agency.

29. While making the aforesaid submissions, Mr. Mittal contends that if the argument of the petitioners is accepted it would frustrate the entire purpose of development and would lead to a situation where even though the land acquired by the State can be put to a better use, would not be done solely because it would amount to change in the public purpose. He submits that a holistic view is required to be taken as far as the process of development is concerned and merely because the executing agencies which otherwise forms the part of the State Machinery are different, would not be a ground to agitate against the acquisition proceedings much less seeking its

quashing. He has further contended that the construction of road is infact a lifeline for the industrial township as is being developed by HSIIDC because presently, the IMT Manesar is connected only through the NH-8. The industrial activity at IMT Manesar has been adversely hit due to the congestion and bottleneck created at the Kherki-Daula Toll-Plaza at NH-8. The successive GMUC Development Plans of GMUC, including the DP-2031 AD, connects the IMT Manesar with the rest of the GMUC area especially the Northern Peripheral Road (NPR) through two Major connectivity arteries.

30. We are in complete agreement with the aforesaid submissions being made and have no doubt in our minds with respect to the position of law as regards the change of public purpose and its effect on the validity of the acquisition proceedings. It has been rightly stated that the development process involves various agencies which place a complementary role to each other and therefore, transfer of land from one department to another for utilizing same for similar or different public purpose is no ground to question the validity of the acquisition proceedings.

31. After vesting of the land, State becomes the absolute owner of the acquired land so much so that no encumbrance on the land can bind the State. Once the land is vested in the State, it is for the State to take a decision as regards the maximum optimization and utilization of land. It is so because the Land Acquisition Act, 1894 does not spell the procedure and manner in which the acquired land is to be utilized, however, the “public purpose” acts as a pole star and a guiding factor for the State in undertaking the steps for utilization of land.

32. The decision as regards the manner in which the acquired land is to be utilized is purely an executive action and a policy decision which is

often executed by way of development plans prepared by the competent authority. The change in the plans and manner of utilization of land forms part of planning and expertise of the State government in executing the development works on the acquired land and is purely an administrative action. It is settled law that judicial review of such action is permissible only on the grounds of illegality, irrationality and procedural impropriety. As far as the preparation of the development plans is concerned, the Court cannot substitute its opinion and dictate the terms regarding the manner in which the land acquired for public purpose shall be utilized. Nor can a land owner dispute the acquisition proceedings on the ground of utilization of land in one manner or other so long such utilization fulfills the touch stone of “public purpose”.

33. More often the acquisition proceedings are challenged on the ground of change in planning or on the ground of change of public purpose, and vague pleas are raised that land is no more fit for utilization. A very pertinent question which arises here is that whether it can be made a ground to challenge the acquisition proceedings afresh. In our opinion, in view of settled law, answer is in negative. The genesis lies in the fact that after the vesting of land, it is the State who is owner of the land, accordingly, the decision to utilize the land rests with the State only. Moreover, the landowner whose status is no more than that of a “trespasser” is no one to dictate the terms in which the acquired land shall be utilized. The only touchstone against which the action of the State while dealing with acquired land is that of “public purpose” i.e., land acquired can be utilized in any manner so long it falls within the parameter of “public purpose”. The pleas with respect to change in planning and change in public purpose are not the grounds on which the acquisition proceedings can be challenged or

interfered with. Such an approach reflects rigidity and is nothing less than an obstruction in the development process. This aspect has been considered by the Courts on numerous occasions and has affirmed the action of the State in changing the utilization of the land acquired for a public purpose to another public purpose. The reference in this regard can be made to the following precedents:-

- a. In **Govt. of A.P v. Syed Akbar AIR 2005 SC 492**, the Hon'ble Supreme Court of India held as follows:-

'..13. From the position of law made clear in the aforementioned decisions, it follows that (1) under Section 16 of the Land Acquisition Act, the land acquired vests in the Government absolutely free from all encumbrances; (2) the land acquired for a public purpose could be utilised for any other public purpose; and (3) the acquired land which is vested in the Government free from all encumbrances cannot be re-assigned or reconveyed to the original owner merely on the basis of an executive order....'

- b. In **Union of India and others Vs. Jaswant Rai Kochhar and others (1996) 3 SCC 491** the Hon'ble Supreme Court of India while dealing with the challenge to the acquisition proceedings on the ground of its utilization of land for another public purpose held as under:-

'....It is contended for the respondents that since the acquisition is for housing scheme, the land cannot be used for commercial purpose, namely, District Center. Therefore, the learned single Judge and the Division Bench have rightly disapproved the change of the user contrary to the purpose notified in section 4(1) of the Land Acquisition Act. We find no force in the contention. It is conceded by the learned counsel that the construction of the District Center for commercial purpose itself is a public purpose. No doubt it was sought to be contended in the High Court that in a housing scheme, providing facilities for commercial purpose is also one of the composite purposes and that, therefore, acquisition was valid in law. However, the contention was rejected by the High Court. We need not go to that

part. Suffice it to state that it is a well-settled law that land sought to be acquired for public purpose may be used for another public purpose. Therefore, when the notification has mentioned that the land is sought to be acquired for housing scheme but it is sought to be used for district Center, the public purpose does not cease to be public purpose and the nomenclature mentioned in the notification under section 4(1) as housing scheme cannot be construed to be a colorable one. The notification under section 4(1) could not have been quashed on the ground that the land is sought to be used for District Center, namely, for commercial purpose. It is obvious that the lands acquired for a public purpose should serve only the public purpose of providing facilities of commercial purpose, namely, District Center as conceded by the learned counsel in fairness to be a public purpose. The notification under section 4(1) cannot be quashed on the ground of change of user. The High Court was wholly wrong in quashing the notification on the ground of change of user..’

34. The law is settled even to the effect that if after achieving public purpose, some land is left unutilized, it can be utilized for any other public purpose or it can be sold by way of public auction to fetch higher money which ultimately will be utilized for public purpose and it is not to be re-conveyed to the original land owner. The reference in this regard is made to the law settled by the Hon’ble Apex Court in the following judgments:-

- (i) In ***State of Kerala v. M. Bhaskaran Pillai AIR 1997 SC 2703***, the Hon’ble Court held that after vesting of land and utilization for the public purpose for which it was acquired, if still land remains unutilized, it is not to be returned to erstwhile owners. The reference in this regard is made to the following:-

‘.....3. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges : Whether the Government can assign the land to the erstwhile

owners ? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting higher value....'

- (ii) Similar observations were made in the case of ***Leela Wanti and others v. State of Haryana and others AIR 2012 SC 515***. The relevant observations are reproduced herein below:-

'.....17. A reading of the above reproduced Paragraph of the Land Administration Manual nowhere suggests that the State Government is duty-bound to restore the acquired land to the owners after the purpose of acquisition is accomplished. It merely mentions that as a matter of grace the Government is usually willing to restore agricultural and pastoral land to the owners on their refunding the amount of compensation. If Paragraph 493 is read in the manner suggested by the learned counsel for the appellants then in all the cases the acquired land will have to be returned to the owners irrespective of the time gap between the date of acquisition and the date on which the purpose of acquisition specified in Section 4 is achieved and the Government will not be free to use the acquired land for any other public purpose. Such an interpretation would also be contrary to the language

of Section 16 of the Act, in terms of which the acquired land vests in the State Government free from all encumbrances and the law laid down by this Court that lands acquired for a particular public purpose can be utilised for any other public purpose....’

35. Therefore, the scope of judicial review as regards the manner in which acquired land is to be utilized is narrow and limited only to the aspect that it shall be utilized for a “public purpose”. Change in planning, change in user and use of land for another public purpose does not call for interference by the Courts and these can certainly be no ground to challenge the acquisition proceedings. Accordingly, we affirm the findings given in the speaking order and reject the challenge to the acquisition proceedings made by the petitioners on the ground that there is change in public purpose on account of transfer of land to HUDA for construction of roads.

B. Plea regarding lapsing of acquisition proceedings under Section 24(2) of the Act of 2013

36. Besides challenging the speaking order dated 09.04.2013, the petitioners have sought lapsing of acquisition proceedings under Section 24(2) of the Act of 2013. In this regard, it is suffice to mention that the controversy cropped up around interpretation of Section 24(2) of Act of 2013 was put at rest by the Constitution Bench of the Hon’ble Supreme Court of India in the case of **Indore Development Authority v. Manoharlal and others AIR 2020 SC 1496** thereby laying down principles for declaring the acquisition deemed to have been lapsed under section 24(2) of Act of 2013. The Apex Court has discussed in detail all the aspects necessary and relevant for interpreting section 24(2) of Act of 2013, and in this regard the

reference is being made to the concluding paragraph of the judgment which is reproduced herein below:-

- ‘....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’.***

37. That the sum and substance of the interpretation of Section 24 (2) of the Act of 2013 by the Hon’ble Supreme Court of India is that the first and foremost condition to seek lapsing is that both the contingencies provided i.e. about the physical possession and the payment of compensation are to be fulfilled meaning thereby if either of the condition is not satisfied, there would no lapsing. As far as the obligation to make the payment in lieu of the land acquired is concerned, it has been clarified that such obligation to pay is complete by tendering the compensation which would mean that the compensation amount was made available to the land owner and if he has not accepted the same, it will not be available for the land owner to claim that the compensation has not been paid. Similarly, word “deposit” has been interpreted to mean depositing with the LAC or the treasury or the reference court. Drawing of *panchnama* has been considered to be a valid proof of

taking physical possession and once the land stands vested in the State, there is no divesting provided under Section 24 (2) of the Act of 2013. The Hon'ble Supreme Court of India has further clarified that the period for which any interim order was in operation, will be excluded while computing the gap period of five years. Similarly, it has been clarified that Section 24 (2) of the Act of 2013 does not give rise to new cause of action to question legality of concluded proceedings of land acquisition as it applies to only those cases wherein the proceedings were pending on the date of enforcement of Act of 2013.

38. Having heard the respective arguments, going through the respective pleadings and above all the exposition in Indore Development Authority (supra), we are of the considered opinion that none of the contingencies provided in section 24(2) of Act of 2013 is fulfilled. Though the petitioners have contended that they are in actual physical possession of the land in question, however, the said averment is not tenable in view of the interpretation of '*physical possession*' made by the Hon'ble Apex Court in Indore Development Authority (Supra) wherein the Hon'ble Court has categorically held that the word possession used in the Act of 1894 has same meaning as that of physical possession used in Section 24 (2) of Act of 2013. When the State Government acquires the land and draws memorandum of taking possession which in the present case is by recording Rapat Roznamcha no. 650 dated 09.03.2006 and 902 dated 31.05.2013 that amounts to taking of the physical possession of the land and once the possession is taken, there is absolute vesting of the land in the State. Thereafter even if the landowner retains the possession of the land, he is a trespasser, and such possession of trespasser enures for his benefit and on behalf of the owner i.e. State. Since possession has been taken by recording

Rapat Roznamcha, therefore, the land stands vested in the State. The plea of the petitioners that they are in physical possession of the land is thus, hereby rejected. If at all possession has been retained by them, it is only as trespassers and not as owners. As a consequence, thereof one of the essentials for claiming lapsing of acquisition proceedings goes.

39. As far as aspect of compensation is concerned, admittedly compensation has been received by the petitioners which itself shows that the compensation amount was tendered and there has been no inaction on part of the State authorities in discharging its obligation as regards payment of compensation. Also it is admitted fact that the petitioners had filed reference under Section 18 of the Act of 1894 for enhancement in compensation. Once it is so, the second contingency prescribed in section 24(2) of Act of 2013 also goes and thus, as none of the contingencies prescribed in section 24(2) of Act of 2013 is fulfilled, the deeming fiction of lapsing provided under section 24(2) of Act of 2013 cannot be invoked. As far as the plea of the petitioners to deposit back the compensation amount is concerned, we are in agreement with the contention of the Ld. Counsel for the State that there is no provision in the acquisition Act, to deposit back the compensation and hence, the said plea is also rejected.

40. As a sequel of the above discussion and in view of law summarized in para 363 of Indore Development Authority (supra), specifically after having recorded that in the case in hand, the physical possession of the land in question having been taken, the obligation for payment of compensation stands discharged and also considering that the land in question is very much essential to achieve the public purpose, we have no hesitation to hold that in the instant case, the state has fully

discharged its obligation qua both the contingencies occurring in section 24 (2) of 2013 Act.

41. After having recorded our satisfaction that the speaking order dated 09.04.2013 has been passed after taking into consideration all the aspects and holding that no ground is available to petitioners to invoke section 24(2) of Act of 2013, the instant petition is dismissed.

42. Having dismissed the main writ petition, all pending applications, if any also meet the same fate. The writ petition is dismissed. Status quo, if any, stands vacated.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.02.2022
ravinder

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