

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

- 120

Date of Decision: 23.11.2023
1.

CM No.20709-CII of 2023 in/and
CR No.1615 of 2023 (O&M)
- SAROJ BALA

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
2.

CM No.20712-CII of 2023 in/and
CR No.1659 of 2023 (O&M)
- RAJIV KUMAR JAIN

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
3.

CM No.20711-CII of 2023 in/and
CR No.1650 of 2023 (O&M)
- BHARAT BHUSHAN

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
4.

CM No.20671-CII of 2023 in/and
CR No.1624 of 2023 (O&M)
- SHASHI RANI

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
5.

CM No.20848-CII of 2023 in/and
CR No.1616 of 2023 (O&M)
- ASHOK KUMAR

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
6.

CM No.20716-CII of 2023 in/and
CR No.1522 of 2023 (O&M)
- ASHOK VIJ

.....Petitioner
- Vs
- STATE OF HARYANA AND OTHERS

....Respondents
7.

CM No.20710-CII of 2023 in/and
CR No.1515 of 2023 (O&M)

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

SUDESH KUMARI AND ORS
Vs
STATE OF HARYANA AND OTHERS

.....Petitioners
....Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Deepkaran Dalal, Advocate and
Mr. Yoginder Rana, Advocate
for the applicant(s)-petitioner(s).

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Shivendra Swaroop, DAG, Haryana
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Siddhanth Arora, Advocate
for respondents No.1 and 2/State.

Mr. Pritam Singh Saini, Advocate
for respondent No.3/Market Committee, Hodal.

HARKESH MANUJA, J. (Oral)

CM No.20709-CII of 2023 in CR No.1615 of 2023
CM No.20712-CII of 2023 in CR No.1659 of 2023
CM No.20711-CII of 2023 in CR No.1650 of 2023
CM No.20671-CII of 2023 in CR No.1624 of 2023
CM No.20848-CII of 2023 CR No.1616 of 2023
CM No.20716-CII of 2023 in CR No.1522 of 2023 and
CM No.20710-CII of 2023 in CR No.1515 of 2023

Prayer made in all these applications under Section 151 CPC is for preponement of date of hearing of the main case(s), which are fixed for 07.02.2024.

Notice in the applications.

On asking of the Court, Mr. Shivendra Swaroop, DAG, Haryana accepts notice on behalf of respondents No.1 and 2 and Mr. Pritam Singh Saini, Advocate accepts notice on behalf of respondent No.3/Market Committee, Hodal.

With the concurrence of learned counsel for the parties, the present applications are allowed. Date of hearing of the main cases is preponed and the same are taken up for hearing today itself.

Main Case(s)

[1]. Vide this common order, CR Nos.1615, 1659, 1650, 1624, 1616, 1522, and 1515 of 2023 (O&M) are being decided as common question of law and facts is involved in all these petitions. For brevity, the facts are being noticed from CR No.1615 of 2023 (O&M).

Brief Facts

[2]. By way of present petition(s), challenge has been laid to the order dated 30.01.2020 passed by the Additional District Judge, Palwal, whereby the petition under Sections 31 and 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred as 'the 2013 Act') filed at the instance of the petitioner(s)/landowner(s) was dismissed/rejected granting them liberty to file fresh petition before the appropriate forum besides another order dated 28.01.2021 passed by respondent No 2, whereby second petition filed u/s 31 and 64 of 2013 Act, was dismissed on account of being time barred; has also been challenged.

[3]. Brief facts of the case are that land belonging to the petitioner(s) was sought to be acquired for commercial purpose viz. construction and development of New Grain Market Hodal, vide notification dated 03.05.2011 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter to be referred as 'the 1894 Act') followed by notification issued under Section 6 thereof. An award dated 18.12.2014 was passed by the Land Acquisition Collector (for short 'the LAC'), determining the amount of compensation @ Rs.40,00,000/- per acre.

[4]. Aggrieved by the aforesaid award dated 18.12.2014, the petitioner(s)/landowner(s) filed Reference Petition(s) under Sections 31 and 64 of the 2013 Act before the LAC which was forwarded to the Court of ADJ, Palwal, however, the same were dismissed vide order dated 30.01.2020 while recording that the Reference Petitions were not maintainable before the Civil Court as the same could have been entertained only by the appropriate forum under the 2013 Act.

[5]. Thereafter the petitioner(s)/landowner(s) filed fresh Reference Petitions under Sections 31 and 64 of the 2013 Act, before LAC & DRO, Palwal, however, the same were rejected vide order dated 28.01.2021, while holding those to be barred by limitation as well as on the issue of maintainability.

Submissions on behalf of the petitioners/landowners

[6]. Impugning the aforesaid two orders dated 30.01.2020 and 28.01.2021, learned counsel for the petitioner(s)/landowners submits that though the ADJ, Palwal dismissed the reference petition(s) filed by the petitioner(s)/landowner(s) under the 2013 Act, however, as per Notification dated 01.05.2018, it is the District and Sessions Judge or his nominee, appointed in each Division as the Presiding Officer for the purposes of Chapter VIII of the 2013 Act, who is conferred with the power to entertain such reference petitions. He thus submits that, at the most, the reference petition(s) could have been forwarded by the Addl. District Judge to the appropriate forum within the same District in consonance with the Notification dated 01.05.2018.

[6.1]. Learned counsel further submits that even the LAC, Palwal dismissed the reference petition(s) by holding it to be barred by limitation without any justifiable reason, particularly when the ADJ, Palwal vide order dated 30.01.2020, observed *qua* grant of benefit of provisions of Section 14 of the Limitation Act, 1963 in favour of the petitioner(s)/landowners(s).

Submissions on behalf of the respondents

[7]. On the other hand, learned State Counsel Mr. Mittal submits that any award passed in terms of provisions of Section 24(1)(a) of the 2013 Act would be an award passed under the old Act of 1894 and not under the 2013 Act. He further submits that the only provisions made applicable in such situation, are which relate to determination of compensation and nothing more which is only provided under Sections 26 to 30 of the 2013 Act.

[7.1]. Learned State counsel in support of the aforesaid argument, refers to the language used in Section 26 of the 2013 Act to point out that the same starts with; *“the Collector shall adopt the following criteria in assessing and determining the market value of the land”*. He further submits that the question of reference would come only after the Collector has passed an award and, therefore, the reference needs to be filed under Section 18 of 1894 Act only. He also submits that for this reason only, Section 64 of the 2013 Act was specifically excluded from the chapter involving the determination of compensation and the intent of the Legislature can be discerned even from the language used under Section

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

24 of the 2013 Act, which starts with; “*notwithstanding anything contained in this Act*’.

[7.2]. Learned State counsel also places reliance upon the judgment passed by the Hon’ble Supreme Court in **Haryana State Industrial and Infrastructure Development Corporation Ltd. & Ors. vs. Mr. Deepak Aggarwal & Ors., 2022(3) R.C.R. (Civil) 934**. The relevant portions of paragraphs No.31 and 32 which have been relied upon learned State counsel are reproduced hereinbelow:-

“31. Now, we will consider the other common questions involved in the captioned appeals. They pertain to the questions as to whether Section 4 notification issued under the L.A. Act prior to 01.01.2014 (date of commencement of 2013 Act) could continue or survive after 01.01.2014 and, as to whether Section 6 notification under the L.A. Act could be issued after 01.01.2014.

32. We think that while considering those questions we will have to bear in mind the purposes and the legislative history of the 2013 Act and also the intention of the legislature in drafting the same in the manner in which it now exists. We have already dealt with those aspects. One crucial aspect discernible from Section 24(1)(a) has also to be taken note of in this context. The combined effect of Section 24(1) and clause (a) thereof is that if land acquisition proceeding under the L.A. Act was initiated prior to 01.01.2014, the date of coming into force of the 2013 Act, and if it was not culminated in an award under Section 11 of the L.A. Act, then all the provisions of the 2013 Act relating to the determination of compensation should apply to such acquisition proceedings. Thus, it is obvious that in case of non-passing of an award in terms of Section 11 of the L.A. Act where the acquisition proceedings have been initiated prior to 01.01.2014, all provisions under the 2013 Act relating to the determination of compensation alone would apply to such acquisition proceedings. In other words, it would mean that in such circumstances the land acquisition proceedings should continue, but all the provisions relating to the determination of compensation under the 2013 Act alone will be applicable to such proceedings, meaning thereby, the 2013 Act would come into play

only at that stage. There can be no doubt with respect to the position that between the initiation of land acquisition proceedings by issuance and publication of notice under Section 4(1) of the L.A. Act and the stage at which compensation for the acquisition calls for determination, there are various procedures to be followed to make the acquisition in accordance with the law. The question is when Section 24(1) of the 2013 Act makes it clear with necessary implication that all provisions of the 2013 Act relating to the determination of compensation alone would be applicable to such proceedings initiated under the L.A. Act but, not culminated in an award, how the procedures are to be regulated during the intervening period till the proceedings reach the stage of determination of compensation. There cannot be any uncertainty on that aspect. The procedures to be undertaken and the manner in which they are to be regulated cannot remain uncertain. They are conducted either in the manner provided under the L.A. Act or in the manner provided under the 2013 Act. But then, in view of Section 24(1)(a), the provisions relating to the determination of compensation alone can be applied to such proceedings or in other words, there is only a restricted application of the provisions of the 2013 Act in relation to such proceedings. The inevitable conclusion can only be that what is applicable to the various procedures to be undertaken during the period up to the stage of determination of compensation are those prescribed under the L.A. Act.....”

[7.3]. Learned State counsel further relies upon the judgment passed by the Division Bench of this Court in **RA-CW No.320 of 2023 in CWP No.14668 of 2023** titled as **‘Satya Prakash and others vs. State of Haryana and others’**. Relevant paragraphs of the said judgment as has been relied upon are reproduced hereinbelow:-

“8. The nuance of the answer, as meted to the said question of law framed, in verdict (supra), as occurs in paragraph No. 34, is that, for the purpose of sub section (1) of Section 24 of the 'Act of 2013', the proceedings under the 'Act of 1894', shall be treated as initiated, thus on publication of a notification under sub-section (1) of Section 4 of the 'Act of 1894'. It is further declared therein, that when clause (a) of sub section (1) of Section 24 of the 'Act of 2013', is applicable, thereupon, the proceedings shall continue as per the 'Act of 1894'

13. *Nonetheless, this Court had also quashed the award which was pronounced under the 'Act of 1894'. This Court could have made the said declaration but only when the compensation amount as became determined in the award was thus not determined in terms of 'Act of 2013' but was drawn in terms of the 'Act of 1894'. Conspicuously so, when in the above paragraph no. 34 carried in the verdict (supra), it has been declared that the proceedings when become initiated, on publication of a notification, under sub section (1) of Section 4 of the 'Act of 1894', and, such initiations taking place on coming into force of the 'Act of 2013', inasmuch as, prior to 01.01.2014, thereupon the earlier launched proceedings under the 'Act of 1894', shall continue but yet the determination of compensation, shall be made in terms of the 'Act of 2013.'"*

[8]. I have heard learned for the parties and gone through the paper book of this case. I find substance in the submissions made on behalf of the petitioner(s)/landowner(s).

[9]. Before I delve upon the issue in hand, it may be relevant to refer to certain provisions of the 2013 Act. Sections 24, 26 and 64 thereof are reproduced hereinbelow:-

"Section 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 possession of the land has not been taken and 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.

Provided further that in computing the period referred to in this sub-section, any period during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by order of any court, shall be excluded.

Provided further that the entry in rapat roznamcha regarding taking or handing over possession recorded by the Land Acquisition Officer or Revenue Official shall be treated as possession taken for all intents and purposes.

Section 26. Determination of market value of land by Collector.—

(1) *The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—*

(a) *the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or*

(b) *the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or*

(c) *consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for*

private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) *the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or*

(c) *the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,*

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas: Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be: Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1): Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area: Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.

Section 64. Reference to Authority.—

(1) *Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:*

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) *The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made—*

(a) *person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;*

(b) *in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:*

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

[10]. Undisputedly, in the present case(s), the acquisition commenced vide notification dated 03.05.2011, issued under Section 4 read with clause (c) of Sub-Section 2 of Section 17 of the 1984 Act by the LAC, Palwal and no award *qua* these acquisition proceedings was passed till 01.01.2014. In short, the crux of the argument raised at the instance of learned State counsel, while placing reliance upon the **Deepak Aggarwal'** and **Satya Prakash's** cases (supra) is that in such given situation, as no award was passed till 01.01.2014, provisions relating to determination of compensation to be made applicable were of the 2013 Act, whereas, the acquisition proceedings, initiated prior thereto would continue under the

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

1894 Act and as such the award passed in such cases was to be treated as been passed under Section 11 of the 1894 Act and accordingly the reference petition(s) were required to be filed by the landowners under Section 18 thereof.

Effect of Section 24(1) (a) having Non-Obstante Clause

[11.] I am unable to find much substance in the submissions made by learned State Counsel. Firstly, contention by the learned State Counsel that since Section 24 of 2013 Act starts with a non obstante clause ("notwithstanding anything contained in this act"), other provisions of the Act, apart from the ones which are specifically mentioned in the said provision, cannot be made applicable, is required to be looked into. As observed in **"Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation vs. Mahesh and others"**, reported as (2022) 2 SCC 772 as well as in **"Indore Development Authority v. Manoharlal"**, reported as (2020) 8 SCC 129, Section 24(1) is a non-obstante clause so as to save the under process acquisitions as on 01.01.2014, from the rigors of Section 114 of the 2013 Act which repeals the 1894 Act from the date of enforcement of the 2013 Act. Relevant paras of **Mahesh and others'** case (supra) are reproduced here under:

"8. Section 114 of the 2013 Act repeals the 1894 Act, which ceases to be effective and applicable from the date of enforcement of the 2013 Act. In terms of sub-section (2) to Section 114, the repeal shall not act so as to prejudice or affect application of section 6 of the General Clauses Act. However, the application of section 6 of the General Clauses Act is subject to "save as otherwise provided" by the 2013 Act. In other words, when it is commanded or imperative by

the provisions of the 2013 Act, section 6 of the General Clauses Act is not to be given legal effect.

9. Sub-section (1) to Section 24 of the 2013 Act is a non-obstante clause. It confers the provision with an overriding status over other provisions. Accordingly, in terms of Sections 24(1) of the 2013 Act, Section 114 of the 2013 Act as well as section 6 of the General Clauses Act will not apply to the extent hindered by Section 24(1) of the 2013 Act. The reason is that Section 114 of the 2013 Act, while accepting the applicability of section 6 of the General Clauses Act, makes its application subject to "save as otherwise provided" in the 2013 Act. Further, section 6 of the General Clauses Act itself states that the general savings will not apply when the legislative intent is contrary."

Therefore, merely that the provision starts with non-obstante clause, it cannot be held that Section 24(1) of the 2013 Act is required to be given a limited scope and accordingly, while interpreting the same, the scope has to be governed by the language of the Section as well as the intent of the Legislature.

Effect of judgment in Deepak Aggarwal’s case (supra)

[12.] Even the judgment relied upon by learned State Counsel in **Deepak Aggarwal’s** case (supra), goes on to aid the cause of petitioner(s)/landowners herein, rather than helping the cause of State. For contextual examination, relevant extract of para no.32 of the said judgment is reproduced hereunder-

“.....The question is when Section 24(1) of the 2013 Act makes it clear with necessary implication that all provisions of the 2013 Act relating to the determination of compensation alone would be applicable to such proceedings initiated under the L.A. Act but, not culminated in an award, how the procedures are to be regulated during the intervening period till the proceedings reach the stage of determination of compensation. There cannot be any uncertainty on that aspect. The

*procedures to be undertaken and the manner in which they are to be regulated cannot remain uncertain. They are conducted either in the manner provided under the L.A. Act or in the manner provided under the 2013 Act. But then, in view of Section 24(1)(a), the provisions relating to the determination of compensation alone can be applied to such proceedings or in other words, there is only a restricted application of the provisions of the 2013 Act in relation to such proceedings. **The inevitable conclusion can only be that what is applicable to the various procedures to be undertaken during the period up to the stage of determination of compensation are those prescribed under the L.A. Act.....***”

[12.1]. Reading of the aforesaid relevant portion makes it evident that steps which are enjoined to be taken in furtherance of issuance of notification under Section 4 of the 1894 Act, till passing of the award, such as filing and entertaining of objections under Section 5-A, issuance of notification under Section 6 or even notices under Section 9 thereof, have to be carried out in accordance with the provisions of 1894 Act only. Even the Hon’ble Supreme Court in the aforesaid judgment, very specifically and in no uncertain terms lays down that “all provisions relating to determination of compensation in a given case where the acquisition proceedings commenced under the 1894 Act, yet no award has been passed as on 01.01.2014, are to be governed by the provisions of the 2013 Act. Once that is so, further procedure essentially has to be governed by the provisions of 2013 Act. Moreover, it has been mandated under Section 24(1)(a) that in case of non-passing of award till 01.01.2014 provisions of 2013 Act would become applicable, therefore, further procedure cannot be set at naught by moving under the provisions of 1894 Act which would create uncertainty and chaos, which has even been feared by the Bench in **Deepak Aggarwal’s** case (supra).

Wider Scope of the Section 24(1)(a)

[13]. Learned State Counsel intends to give a very restricted interpretation to Section 24(1)(a) of the 2013 Act, to the effect that in case the proceedings for acquisition were initiated under Section 1894 Act and no award was passed till 01.01.2014, all further proceedings including the procedure to file reference would continue under the 1894 Act and only provisions related to determination of compensation would apply. But a careful examination reveals that the exact language used in the Section stipulates that **"all provisions of this Act relating to the determination of compensation shall apply"**. It is another settled law that where the term "relating to the" is used, a wide scope is required to be given while interpreting the provisions. In the language of Section 24(1)(a) of the 2013 Act, apart from "relating to the", "all" has also been used giving it a much wider scope.

[13.1]. While examining the language of Section 24(1) of the 2013 Act, wider scope of the provisions thereof has been specifically discussed in **Mahesh and others'** case (supra), wherein, Hon'ble Apex Court observed as under:-

"16. We begin by examining the phrasing of clause (a) to Section 24(1) of the 2013 Act. We would prefer to read the words "all the provisions relating to determination of compensation" in Section 24(1)(a) as including the period of limitation specified in Section 25 of the 2013 Act. To elaborate, the word 'all' and the expression "relating to" used in Section 25 are required to be given a wide meaning to ensnare the legislative intent. The expressions "relating to" or "in relation to" are words of comprehensiveness which may have a direct as well as indirect significance depending on the context. Similarly, interpreting Section 129C of the Customs Act,

1962, this Court while giving the phrase 'in relation to' a narrower meaning of direct and proximate relationship to the rate of duty and to the value of goods for purpose of assessment, did observe that *The State Wakf Board, Madras represented by its Secretary v. Abdul Azeez Sahib & Ors.*, AIR 1968 Madras 79 ordinarily the phrase 'in relation to' is of a wider import.⁷ Several cases assigning a wider import to the expression 'relating to', in view of the contextual background, find reference in *Gujarat Urja Vikas Nigam Limited v. Amit Gupta and Others*.⁸ In *Renusagar Power Co. Ltd. v. General Electric Company and Another*,⁹ this Court held that the term 'in relation to', when used in the context of arbitration clause, is of widest amplitude and content. In *Mansukhlal Dhanraj Jain and Others v. Eknath Vithal Ogale*,¹⁰ the expression 'relating to' in the context of Small Causes Court Act, 1887 has been held to be comprehensive in nature that would take in its sweep all types of suits and proceedings which are concerned with recovery of possession. Broad and wider interpretation was again preferred in *M/s. Doypack Systems Pvt. Ltd. v. Union of India and Others*,¹¹ observing that the expression "in relation to" is a very broad expression which presupposes another subject matter. In *M/s. Doypack Systems Pvt. Ltd. (supra)*, in the context of Section 3 of Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1986, the expression "relating to" was held to mean 'bring into'.⁷ *Navin Chemicals Mfg. and Trading Co. Ltd. v. Collector of Customs*, (1993) 4 SCC 320 82021 SCC Online SC 194 9 (1984) 4 SCC 679 10 (1995) 2 SCC 665 11 (1988) 2 SCC 299 association or connection with'.¹² The words are comprehensive and might have both direct as well as indirect significance. The decision in *Gujarat Urja Vikas Nigam Limited (supra)* refers to *Corpus Juris Secundum*, wherein the expression "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to". It has been observed that the expression "pertaining to" is an expression of expansion and not of contraction. The expression "relating to" when used in legislation normally refers to "stand in some relation, to have bearing or concern, to pertain, to refer, to bring into association with or connection with".¹³ Therefore, the expression 'relating to' when used in legislation has to be construed to give effect to the legislative intent when required and necessary by giving an expansive and wider meaning. Given this trend in interpretation, the words "all the provisions of this Act relating to the determination of compensation" must not be imputed a restricted understanding of the word 'relating' only to the substantial provisions on calculation of compensation, that is, Sections 26 to 30 of the 2013 Act. Rather, the expression should be given an expansive meaning so as to include the provision on ¹²*M/S Doypack Systems Pvt. Ltd. v. Union of India and others*, (1988) 2 SCC 299 ¹³ See judgment of Mitter, J. (paragraph 308) in *H.H.*

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur of Gwalior etc. v. Union of India & Anr., (1971) 1 SCC 85. limitation period for calculation of compensation, that is, Section 25 of the 2013 Act."

Thus, in view of above discussion, it would be appropriate to hold that the term "determination of compensation" has to be given a wide and liberal scope and applying only Sections 26 to 30 of 2013 Act, as argued by the learned State Counsel, would be equivalent to the mechanical application, without giving real and purposeful meaning to the intent of the Legislature behind the provision

[13.2]. Merely because Section 64 of 2013 Act is in another chapter than Chapter III, which contains the provisions related to the determination of compensation, to hold that it does not relate to the determination of compensation would be far-fetched. Even in Section 69, ("69. Determination of award by authority."), which is in Chapter VII, there is reference to Sections 26 to 30, which shows that determination of compensation involves a complex and networked scheme and merely on the basis of Section 64 being in a specific chapter, it cannot be said that it is not involved in determination of compensation. Section 69(1) of 2013 Act is reproduced hereunder:-

"69. Determination of award by authority.—(1) In determining the amount of compensation to be awarded for land acquired including the Rehabilitation and Resettlement entitlements, the Authority shall take into consideration whether the Collector has followed the parameters set out under section 26 to section 30 and the provisions under Chapter V of this Act."

[13.3]. Once the determination of compensation is made under the provisions of 2013 Act by following the steps as envisaged therein, an

award passed subsequent thereto, would be an award under the 2013 Act only. In that circumstance, a procedural remedy, available in relation to any grievance for the determination of compensation i.e. reference under Section 64 of the 2013 Act, which is a wholesome and effective recourse in such scenario, cannot be ousted on account of a limited scope being rendered to Section 24(1)(a) of the 2013 Act.

Legislative intent behind Section 24(1)(a)

[14]. In that context, it would be beneficial to discern the legislative intent behind the legislation of this provision and for that purpose referring to the recommendation by Parliamentary Standing Committee in its 31st Report would be helpful. However, before that, it is necessary to briefly discuss the relevancy of the Parliamentary Standing Committee Report (PSC Report) in the context of their legal & persuasive value. In “**Kalpna Mehta v. Union of India**”, reported as AIR 2018 (SC) 2493, a Constitution Bench of Hon’ble Apex Court held that though such reports cannot be decisive, and the Court is free to arrive at a different conclusion, however, at the same time, PSC Report can be used to evaluate the historical background of a law, or the nature of the problem that a statute sought to cure alongwith holding that a PSC Report has persuasive value while resolving an ambiguity in the wording of a statutory provision. Relevant para of the same is reproduced hereunder:

“117. From the aforesaid, it clear as day that the Court can take aid of the report of the parliamentary committee for the purpose of appreciating the historical background of the statutory provisions and it can also refer to committee report or the speech of the Minister on the floor of the House of the Parliament if there is any kind of ambiguity or incongruity in a provision

of an enactment. Further, it is quite vivid on what occasions and situations the Parliamentary Standing Committee Reports or the reports of other Parliamentary Committees can be taken note of by the Court and for what purpose. Relying on the same for the purpose of interpreting the meaning of the statutory provision where it is ambiguous and unclear or, for that matter, to appreciate the background of the enacted law is quite different from referring to it for the purpose of arriving at a factual finding. That may invite a contest, a challenge, a dispute and, if a contest arises, the Court, in such circumstances, will be called upon to rule on the same.”

Therefore, it can be said without any doubt that aid of Parliamentary Committee Report can be taken to interpret provisions for the purpose of interpreting the meaning and intent of the statutory provision where it is ambiguous and unclear.

[14.1]. A perusal of 31st Report of Standing Committee would show that Section 24 as it stood in the original bill i.e. "The Land Acquisition, Rehabilitation and Resettlement Bill, 2011" (hereinafter referred as LARR Bill) envisaged that if the award under Section 11 thereof, has not been made before such commencement, the process shall be deemed to have lapsed and the appropriate Government shall initiate the process for acquisition of land afresh in accordance with the provisions of this Act. Draft Section 24 as per LARR Bill is reproduced hereunder:

“24. (1) Notwithstanding anything contained in this Act, in any case where a notification under section 4 of the Land Acquisition Act, 1894 was issued before the commencement of this Act but the award under section 11 thereof has not been made before such commencement, the process shall be deemed to have lapsed and the appropriate Government shall initiate the process for acquisition of land afresh in accordance with the provisions of this Act.

(2) Where possession of land has not been taken, regardless of whether the award under section 11 of the Land Acquisition Act, 1894 has been made or not, the process for acquisition of land shall also be deemed to have lapsed and the appropriate Government shall initiate the process of acquisition afresh in accordance with the provisions of this Act.”

[14.2]. A further perusal of 31st report of Standing Committee reveals that many stakeholders objected that the proceedings already initiated under the 1894 Act should not lapse as it would lead to time and cost over-run in many projects. Therefore, Standing Committee recommended to incorporate necessary provisions to be framed under the new Act with a view to ensure that land acquisition proceedings already initiated under the existing Land Acquisition, 1894 should not lapse though, land owners/farmers/affected families get land compensation and R&R benefits as per the new Act, so that the pace of implementation of infrastructural projects is not adversely impacted. Recommendation of the Standing Committee with respect to clause 24 of the LARR Bill are reproduced hereunder:

“Recommendation of the Committee

16.5 The Committee note that Clause 24 of the Bill provides that land acquisition cases/process shall be invalid on enactment of the new Act in cases where Collector has not given award or possession of the land has not been taken before the commencement of the proposed legislation. Some of the representatives of the industry and also the Ministries like Railways and Urban Development submitted before the Committee that land acquisition proceedings already initiated under the existing Land Acquisition, 1894 should not lapse as it would lead to time and cost over-run in many infrastructural projects. However, in such cases land compensation and R&R benefits could be allowed as per the provisions of LARR Bill. The Committee would like the Government to re-examine the issue and incorporate necessary provisions in the Rules to be framed under the new Act with a view to ensuring that the land owners/farmers/affected families get enhanced compensation and R&R package under the provisions of the LARR Bill, 2011 and at the same time, the pace of implementation of infrastructural projects is not adversely impacted.”

[14.3]. While enacting Section 24 with the purpose of saving the ongoing acquisition proceedings, differentiation was drawn on the basis

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

whether on the date when 2013 Act came into force i.e. 01.01.2014, award was passed or it was pending. In acquisition proceedings, where the award stood passed before 01.01.2014, such acquisition proceedings were covered by Section 24(1)(b) of 2013 Act and in such circumstances, proceedings were supposed to continue under the Provisions of 1894 Act only. However, in acquisition proceedings, where the proceedings were initiated under the 1894 Act but award could not be passed before 01.01.2014, such acquisition proceedings were made to be covered by Section 24(1)(a) of 2013 Act. The purpose of the aforesaid change was that proceedings initiated under the 1894 Act should continue till the passing of the award, so that there is no lapse of acquisition proceeding, but ultimately, with the purpose that no prejudice was caused to the land owners, who shall be granted higher compensation as available under the new Act and accordingly, award shall be passed under the 2013 Act and in that circumstance, as a natural corollary, thereafter, for all intents and purposes, the provisions of the new Act would follow.

[14.4]. Reference can be made to judgment of the Hon'ble Apex Court in **Executive Engineer's** case (Supra) wherein, it was observed that acquisition proceedings are preserved under the 1894 Act till the stage of making of the award. Relevant para of the same is reproduced hereunder:

"14. In paragraph 195 in Indore Development Authority (supra), the Constitution Bench held that the 2013 Act operates prospectively. Further, Section 114 of the 2013 Act effects a repeal but with certain savings, in accordance with Section 24. Thus, the acquisition proceedings are preserved under the 1894 Act till the stage of making of the award. Where an award is not made, the provisions relating to determination of

compensation under the 2013 Act would apply; where the award is made, proceedings would continue under the provisions of the 1894 Act as if the said Act has not been repealed. Our interpretation of Section 24(1) of the 2013 Act respectfully follows this precedent."

Forum of reference have a Procedural nature

[15]. There is another aspect as well. While there is no denial to the fact that the operation of 2013 Act is prospective in nature, as well as the fact that right to reference is also a substantive right, but the forum, where a reference can be filed is more procedural in nature. Land acquisition proceedings covered by Section 24(1)(b), where the proceedings would continue under the old 1894 Act, It make sense that reference should be filed under Section 18 of the 1894 Act. But, acquisition proceedings which are covered by Section 24(1)(a), where determination of compensation has to take place as per the provisions of 2013 Act, to contend that procedure of reference will still be governed by the 1894 Act, is a bit preposterous, as the award passed under the land acquisition proceedings is very crucial to determine the course of further proceeding. Fact that determination of award in land acquisition proceeding is an extremely critical stage, which would substantively determine the nature of further proceedings was also recognised by the Hon'ble Apex Court in Deepak Aggarwal's case (supra) as well. Relevant para of the same is reproduced hereunder:

"8. In the light of the aforesaid decisions what needs to be looked into is the extent and scope of the applicability of the provisions under the L.A. Act, despite its repeal, by virtue of section 24 of the 2013 Act. A perusal of Section 24 would reveal that passing of an Award under Section 11 of the L.A. Act is the key factor in deciding the manner and nature of continuance of the land acquisition proceedings. A scanning of Section 24(1)(a) would reveal that if land

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

acquisition proceeding was initiated under the L.A. Act, but no award was passed under Section 11 thereof, then, all provisions of the 2013 Act relating to the "determination of compensation" would apply. At the same time, if upon initiation of acquisition proceedings under the L.A. Act, an award under Section 11 of the L.A. Act was passed, then, such proceedings shall continue under the provisions of the L.A. Act itself, as if the same had not been repealed."

[15.1]. The procedural nature of the forum where right to reference can be exercised can also be ascertained from the judgment dated 01.12.2022 passed by this Court in case titled as **"Mahaveer Singh vs State of Haryana and others"** bearing CR No.2330 of 2020 wherein, learned State counsel duly admitted before a Co-ordinate bench of this court that It is wrong for the reference Court to direct the landowners to file reference before the authority as in both the cases, matter has to be decided by the District Judge only. Relevant para of the same is reproduced hereunder:

"Learned Advocate General, Haryana, admits that the impugned orders passed by the Reference Court, while directing the landowners to initiate the proceedings before the Land Acquisition Rehabilitation and Resettlement Committee are wrong because either under the old Act i.e Land Acquisition Act, 1894 or under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the matter is required to be decided by the District Judge. It is also admitted that the reference has already been sent by the Land Acquisition Collector to the competent court. Hence, the impugned orders are set aside. The reference applications are restored to their original numbers. The court is requested to decide the same on merits. The parties through their counsels are directed to appear before the Reference Court on 22.12.2022."

[15.2]. Flexible nature of procedural aspect can also be sensed from the fact that a Division Bench of this Court in **"M/s Super Seals India Limited vs The State of Haryana and others"** bearing Neutral Citation No.2019:PHHC:111506, even directed to convert the reference filed under

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

Section 18 of 1894 Act into the reference under Section 64 of the New Act of 2013. Relevant para of the same is reproduced hereunder:

"Hence, in order to save time of the Court as well as the litigant, this Court suo motu proceeds to exercise powers under the revisional jurisdiction. Resultantly, the impugned order(s) dated 25.07.2019 are set aside and the reference under Section 18 of the Old Act of 1894 for enhancement of the compensation of the acquired land is being converted into the reference under Section 64 of the New Act of 2013. A direction is now being given to the Reference Court to proceed in accordance with the New Act of 2013 from the stage of recording the evidence. However, liberty is granted to the petitioner(s) to make any application, in accordance with law, for recalling of any other order, which has/have been passed with respect to the acquired land of Village Anangpur, H.B. No.2, Tehsil & District Faridabad."

[16]. The above said determination by this Court that, wherein, land acquisition proceedings are covered by section 24(1)(a) of the 2013 Act, further proceedings would be governed by the 2013 Act only is also bolstered by the fact that a Division Bench of Karnataka High Court in **"Deputy Commissioner And Special Land Acquisition Officer v. M/s. S.V. Global Mill Limited"**, reported as 2023(1) AIR Kar R 450, while discussing the exact same legal point also held that reference in such circumstances has to be filed under the provisions of Section 64 of the 2013 Act. It is clarified that for the sake of brevity, while discussion being made in the foregoing paras only disjoint considerations have been delved into, but at the same time, this Court finds itself in complete conformity with the reasoning recorded therein. Concluding paras of the judgment passed in **M/s. S.V. Global Mill Limited's** case (supra) are reproduced hereunder:

"40. The contentions of the learned AAG cannot be accepted in view of the words, "all provisions of this Act relating to the determination

of compensation shall apply" used in Section 24(1)(a) of the 2013 Act. Admittedly, in the present case, the preliminary notification came to be issued on 7.2.2013 followed by final notification on 18.11.2013 under the provisions of the 1894 Act and the award came to be passed on 8.10.2014 under the provisions of 2013 Act and therefore, the provisions of Section 24(1)(a) of the 2013 Act are applicable, thereby all provisions of 2013 Act relating to the determination of compensation shall apply. Therefore, in the present case, the reference has to be made only under the provisions of Section 64 of the 2013 Act and not under Section 18 of the 1894 Act and after passing of the award by the reference authority under Section 69 of the 2013 Act, the aggrieved party may file an appeal before this Court under Section 74 of the 2013 Act and not under Section 54 of the 1894 Act. Hence, the contention of the learned AAG that appeal lies under Section 54 of the 1894 Act, cannot be accepted.

41. As stated supra, once the provisions of Section 24(1)(a) of the 2013 Act applies to the case on hand, then the provisions of 2013 Act to pass award, request to make a reference, award by the reference authority and challenge thereto, automatically applies. Admittedly in the present case, the Special Land Acquisition Officer has made reference under Section 64(1) of the 2013 Act and the reference authority passed the award as contemplated under Section 69 of the 2013 Act and therefore, automatically the provisions of Section 74 of the 2013 Act applies for filing the appeal before this Court. Thereby, the contention of the learned AAG that 1894 Act is applicable for all other purposes, is without any basis and cannot be accepted."

Discussion on other points

[17]. Perusal of Section 24(1)(a) of the 2013 Act would show that the language and text used by the Legislature while enacting Section 24(1)(a) makes it clear that in case no award under Section 11 of the 1894 Act has been passed, then all provisions of the 2013 Act relating to determination of compensation shall apply. Even if the Land Acquisition Collector, in pursuance of the acquisition proceedings, is in the process of determination of compensation but in terms of clause (a) to Sub-section 1 of Section 24 of the 2013 Act, there is no award passed under Section 11 of the 1984 Act

CM-20709-CII-2023 in/and
CR-1615-2023 (O&M)

2023:PHHC:149198

before 01.01.2014, then all provisions of the 2013 Act, relating to determination of compensation are to be applied by the Collector while passing the award. It is immaterial whether acquisition proceedings commenced under the 1894 Act with issuance of notice under Section 4 of the 1894 Act, and the prime consideration is whether by 01.01.2014, the award was not passed or not. Perusal of paragraph Nos.8 and 13 of the judgment passed by the Division Bench of this Court in **Satya Prakash and others**' case (supra), nowhere reflects the exposition of law in the manner in which the same is being projected by learned State counsel. A close perusal of paragraph no.8 thereby shows that the point in issue in the present case, was never dealt with therein.

[18]. At the cost of repetition, it may be relevant to point out here that the provisions of the 1894 Act contemplate taking of various steps between issuance of Section 4 thereof and passing of the award, such as, filing and entertaining of objections under Section 5(A), issuance and publication of notification under Section 6 of the said Act as well as calling upon the landowners to submit their objections in terms of Section 9 thereof, as regards the nature, measurement and quality of land before carrying out determination of compensation by passing the award. Accordingly, as per law laid down by the Hon'ble Apex Court, where notification under Section 4 has been issued under the 1894 Act and the determination of compensation has not been made by passing of award on 01.01.2014, all such steps like filing and entertaining of objections, under Section 5(A), issuance of notification under Section 6 as well as the proceedings under Section 9 are to be carried out under the old 1894 Act, but for

determination of compensation it has to be made under the 2013 Act as per the intent of the Legislature laid down under clause (a) to Sub-section 2 of Section 24 thereof.

[19]. In view of the aforesaid discussion, while holding that in case where acquisition proceedings commenced under the 1894 Act with issuance of notification under Section 4 thereof and no award was passed in exercise of powers under Section 11 of the 1894 Act, though all further steps taken in consonance with the statutory provisions/obligations, no doubt can be carried out under the 1894 Act, but for passing of the award, compensation has to be determined as per the provisions of 2013 Act and the reference petition/objection against it for seeking enhancement has to be filed under section 64 thereof by following Sections 26 to 30 of the 2013 Act, in terms of section 69 of the said Act. The above stated intent of the Legislature can be discerned from the language used in clause (a) to Sub-section 1 of Section 24 of the 2013 Act, which enjoins the authorities/Collector to apply all the provisions of the 2013 Act relating to determination of compensation which begins with the passing of the award only. In case the interpretation to Section 24 of the 2013 Act is given in the manner in which the argument is being projected and professed by learned State counsel, the same would become destructive to clause (a) to Sub-section 1 of Section 24 of the 2013 Act.

[20]. Resultantly, in view of discussion made hereinabove, the present revision petitions are allowed and the order dated 30.01.2020 passed by the Addl. District Judge, Palwal is hereby set aside. The matters

are sent back to the Ld. District Judge, Palwal for assigning the same to the Presiding Officer appointed in terms of Chapter VIII of the 2013 Act in terms of notification dated 01.05.2018 issued by the State of Haryana. In view thereof, no orders are required to be passed *qua* the order dated 28.01.2021 passed by the Land Acquisition Collector & DRO, Palwal.

[21]. Considering the fact that the acquisition proceedings in the present case(s) commenced with the notification dated 03.05.2011 issued under Section 4 of the 1894 Act and a period of almost 12 years has gone by, the Reference Court-cum-Presiding Officer is requested to dispose of the proceedings as expeditiously as possible, preferably within a period of one year from today while considering the reference filed by the petitioner(s)/landowners to be under Section 64 of the 2013 Act and determine/re-assess the compensation in terms of the provisions thereof.

[22]. All pending applications, if any, shall also stand disposed of.

November 23, 2023

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No