

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

**Civil Writ Petition No. 15172 of 2023
Date of decision : July 19, 2023**

RAM PHAL AND OTHERS -PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS -RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate, for the petitioners

Mr. Ankur Mittal, Advocate
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate for respondent no. 3-HSVP

KULDEEP TIWARI, J.

1. Through the instant writ petition, the petitioners crave the indulgence of this Court, for issuance of a mandamus upon the respondent(s) concerned, to allot/release the lands of the petitioners, acquisition proceedings whereof were lawfully terminated in the year 1983, i.e. around 4 decades back. The relief (supra) is cast on the premise that the acquired lands fall in close proximity, i.e. within 900 meters, of the restricted area of the Ammunition Depot of the Military.

2. The instant writ petition, though is camouflaged to reap the relief (supra), however, the primary reason behind the institution of the instant writ petition, appears to be the malafide intention of the petitioners to retain their illegal possession over the acquired petition lands.

3. However, before delving into the controversy at hand, it would be apt to record here that through the instant writ petition, the petitioners have entered into a third round of litigation, thereby seeking de-notification of the petition lands, which were lawfully acquired around 4 decades back. Therefore, we deem it imperative to first trace the genesis of the controversy, vis-a-vis, the factual backdrop of the case, to conclusively give quietus to the litigation(s).

FACTUAL BACKGROUND

4. The petitioners claim themselves to be the owners of the petition lands, being successor(s)-in-interest of Yadu and Harnarain, whose demises occurred in the year 1990. The petition lands were brought to acquisition by the respondent-State, through issuance of a preliminary notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894') on 6.7.1981, which was succeeded by issuance of a declaration under Section 6 of the Act of 1894, on 25.6.1982. Thereafter, an award under Section 11 of the Act of 1894, in respect of the acquired petition lands, was pronounced on 25.3.1983, and, on the very day, the possession thereof was also assumed by the erstwhile Haryana Urban Development Authority (now Haryana State Industrial & Infrastructure Development Corporation Ltd.). The receiving of the compensation amount by the petitioners, as assessed by the Collector concerned, is an uncontested factum. Moreover, it is also apparent from record, that no challenge was laid to the acquisition proceedings (supra), until the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013').

5. Upon coming into force of the Act of 2013, the petitioners availed the provisions of Section 24(2) of the Act of 2013 by instituting before this Court, a writ petition bearing No. CWP-10754-2014, titled “Ram Phal and others V/s State of Haryana and others”, thereby seeking quashing of the notification, declaration and award (supra). The petitioners claimed the relief (supra), on the premise, that though compensation has been received, but physical possession is yet with the petitioners, and, that they are ready and willing to refund the compensation amount along with interest. However, this Court disposed of the writ petition (supra), vide order dated 05.05.2015 (Annexure P-8), thereby reserving liberty to the petitioners to, within two months, make a detailed representation, canvassing therein all the pleas as raised in the writ petition (supra), and, also imparted directions to the respondent(s) therein, to decide such representation of the petitioners, but within a period of four months of its filing. Status quo was also ordered to be maintained by the parties until any decision was taken on the matter. The relevant paragraph of the order (supra), carrying the above directions, reads as under:-

“4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned

authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.”

4. In compliance with the above reserved liberty, the petitioners moved a representation dated 22.05.2015 (Annexure P-9), before the competent authority concerned. However, the competent authority concerned, after perusing the report of Zonal Committee concerned, which was constituted to decide such representations, rejected the representation (supra), vide a speaking order dated 29.7.2016 (Annexure P-10).

5. The principal reasons for rejection of the representation (supra), as contained in Annexure P-10, pertained to lawful termination of the relevant acquisition proceedings, i.e. through payment of the assessed compensation and consequent thereto assumption of possession, on 25.3.1983, of the acquired lands. The further reasons, as recorded in Annexure P-10, related to inclusion of the petition lands in Sector 18, Gurgaon, which is reserved for industrial use and as per Layout Plan of Sector 18 (Part), Electronic City, Gurgaon, the petition lands formed a part of lands reserved under undermined use and also affected a plot measuring 1/4 acres and 19 meters wide internal sector road. Furthermore, the petition lands have been cited in Annexure P-10 to be used for the construction of 18 meters wide road by the erstwhile Haryana Urban Development Authority (now Haryana State Industrial & Infrastructure Development Corporation Ltd.), besides for the development of green belt thereon. The allotment of Plot No. 1/18, upon the petition lands, is also cited to be one of the reasons for rejecting the representation (supra). The relevant extract of

the Annexure P-10 is reproduced as under:-

“2. LAO Gurgaon reported that the specific public purpose for which land has been acquired is for sector 18, Gurgaon which is reserved for industrial use as reported by DTP Gurgaon.

3. LAO Gurgaon reported that the compensation amount of the acquired land has been taken by the land owners on dated 17.2.1989.

4. Estate Officer-I HUDA, Gurgaon reported that possession of the said land is with HUDA which was handed over on 25.3.1983 which is a substantive piece of evidence to prove possession change.

5. DTP, Gurgaon reported that as per FDP GMUC-2031 AD the land in question falls in Sector 18, Gurgaon reserved for Industrial use. As per Sajra cum Layout Plan of Sector 18 (Part) Electronic City, Gurgaon the suit land is part of land reserved under undetermined use and also effects 1 no. plot of area measuring $\frac{1}{4}$ acres and 19 mtrs wide internal sector road. The structure plate of survey conducted at the time of section 4 is not available in his office.

6. Estate Officer-I HUDA Gurgaon reported that on the above said land 18 mtrs wide road has been constructed by the Department. The planning on the said land has been done by the department and the department has developed green belt on the said land.”

6. The rejection order (Annexure P-10) caused grievance to the petitioners and caused the petitioners to again approach this Court against the order (supra), by filing CWP-5682-2017, titled “Ram Phal and others V/s State of Haryana and others”. However, a Coordinate Bench of this Court, vide order dated 20.3.2017 (Annexure P-11), dismissed the writ petition (supra), while holding that since both the statutory conditions, as laid down in Section 24(2) of the Act of 2013, have been satisfied, therefore, the acquisition proceedings does not lapse. The operative part of the order (Annexure P-11) is extracted hereunder:-

“In the case in hand, the notification under Section 4 of the Land

Acquisition Act, 1894 (for short '1894 Act') was issued on 6.7.1981, which was followed by notification under Section 6 of 1894 Act, dated 25.6.1982. The award was announced by the Land Acquisition Collector (for short 'the Collector') on 25.3.1983. It is not in dispute that the petitioners had received the amount of compensation assessed by the Collector. Civil Writ Petition No. 10754 of 2014 was filed in this Court raising the issue that though amount of compensation has been received by the petitioners, but the physical possession of the land is still with the petitioners. Hence, in view of the provisions of Section 24(2) of the Act, the acquisition lapsed. The matter was considered by the Zonal Committee. The only dispute which remained was whether the possession was still with the petitioners or had been taken by the State? The finding recorded by the Zonal Committee on that count is that possession of the land in question is with HUDA and subsequently the land was planned to be used for industrial area plots were carved out.

Hence, the petitioners cannot claim that they are in possession of the land, merely because it has yet not been utilised by the department, which had acquired it.”

7. The petitioners remained yet dis-satisfied and laid challenge to the dismissal order (supra), before the Hon'ble Supreme Court, through instituting SLP No. 35299/2017. However, since the issue involved in the SLP (supra) was squarely covered by the Constitution Bench decision of the Hon'ble Supreme Court, rendered in **“Indore Development Authority v. Manoharlal”, (2020) 8 SCC 129**, therefore, the SLP (supra) was dismissed, vide order dated 17.03.2023 (Annexure P-12).

8. The present case is a classic example of creating multiple litigation to revive a stale and time barred claim. Thus, we are observing on the backdrop of the facts, that despite loosing the battle upto the Hon'ble Supreme Court, the petitioners have yet made a fresh endeavor to make a

representation (Annexure P-13), thereby seeking de-notification of the petition lands, in view of the provisions of Section 101-A of the Act of 2013, as inserted through Haryana Act No. 21 of 2018, and, which assumed force w.e.f 1.1.2014. The relief (supra) is agitated, on the ground, since the acquired petition lands falls in restricted area of Ammunition Depot of the Military, therefore, no construction activity can be carried out thereon, which defeats the purpose for which the petition lands were acquired and ultimately makes them “unviable” and “non-essential” for the relevant public purpose.

REASONS FOR REJECTING THE WRIT PETITION

9. We have considered the above made submissions before this Court. However, we are constrained not to make any mandamus upon the respondent(s) concerned, to consider the representation for de-notification of the acquired petition lands, in view of Section 101-A of the Act of 2013, for the reasons assigned hereinafter.

10. The first and foremost reason for forming the above inference emerges from non-canvassing of the well available plea(s), inasmuch as, the plea pertaining to the acquired petition lands being falling within the restricted area of Ammunition Depot of the Military, in the earlier instituted motions before this Court. The plea (supra) was well available to be initially raised in the first round of litigation itself, in the year 2014. Nonetheless, the plea (supra) was again well available when the petitioners re-approached this Court, in the year 2017, while launching the second motion against the order dated 29.7.2016 (Annexure P-10). Assumingly, if the petitioners were not aware of the plea (supra) at the stage of launching the

first motion, yet the petitioners can never be assumed to be unaware of the plea (supra) at the time of instituting the second motion before this Court, as the order challenged therein, itself carried an unambiguous mention qua the plea (supra). However, despite full acquaintance of the plea (supra) and despite its being well available to be raised in the earlier writ petitions, the petitioners chose to abandon the exercise of raising the said plea, for challenge the notification, declaration and award (supra). Consequently, the raising of the plea (supra) now in the present petition is squarely hit by doctrine of *constructive res judicata*, which resultantly debars the petitioners to revive a stale and time barred claim. The underlined object of “*constructive res judicata*” is to cut short litigation between the parties, so that a person may not be vexed again with regard to the same matter. It would also be an abuse of the process of Court to allow a new proceeding to be initiated, in respect of the same issue or subject matter. The rationality of *constructive res judicata* is that the party should raise all his available pleas at the first instance and raising them at each successive stage is prohibited.

11. The second reason for forming the above conclusion generates from the claim of the petitioners being stained with the gross pervasive vice of delays and laches. Evidently, no challenge was made to the lawfully terminated acquisition proceedings, which terminated on 25.3.1983, until the enactment of the Act of 2013. Admittedly and reiteratedly, after the pronouncement of an award bearing No.20, the petitioners had received the compensation amount and thereupon, the possession of the acquired land was assumed by the acquiring authority concerned. The factum qua assumption of possession by the erstwhile Haryana Urban Development

Authority (now Haryana State Industrial & Infrastructure Development Corporation Ltd.), though is contested by the petitioners, however, it gains ample corroboration from the order made by this Court on 20.03.2017 (Annexure P-11), wherein, it has been so recorded. Since the finding (supra) has attained finality, therefore, the petitioners cannot be permitted to continue to make challenge to the acquisition proceedings, which attained finality 4 decades back. It is not more *res integra* that a person who raises his claim after a considerable delay, has to be told that delay and laches have closed the doors of Courts for him.

12. Even the Hon'ble Apex Court in a judgment rendered in case titled **"Star Wire (India) Ltd. V/s State of Haryana and others", reported in (1996) 11 SCC 698**, has declared that any belated challenge, as made to the fully terminated acquisition proceedings, is hit by the vice of delay and laches, therefore, the said belated motion is required to be declared as misconstituted. The relevant paragraph of the judgment (supra) is reproduced as under:-

"3. Shri P.P. Rao, learned Senior Counsel for the petitioner, contends that the petitioner had no knowledge of the acquisition proceedings; as soon as it came to know of the acquisition, it had challenged the validity of the acquisition proceedings and, therefore, it furnishes cause of action to the petitioner. He further contends that the writ petition could not be dismissed on the ground of laches but was required to be considered on merits. We find no force in the contention. Any encumbrance created by the erstwhile owner of the land after publication of the notification under Section 4(1) does not bind the State if the possession of the land is already taken over, after the award came to be passed. The land stood vested in the State free from all encumbrances under Section 16. In Gurmukh Singh v. State of Haryana, 1996 SCC (Cri.) 505: JT

(1995) 8 SC 208, this Court had held that a subsequent purchaser is not entitled to challenge the legality of the acquisition proceedings on the ground of lack of publication of the notification. In Yadu Nandan Garg v. State of Rajasthan, (1996) 1 SCC 334, and Sneh Prabha v. State of U.P., (1996) 7 SCC 426, this Court had held that the alienations made by the erstwhile owner of the land after publication of the notification under Section 4(1), do not bind either the State Government or the beneficiary for whose benefit the land was acquired. The purchaser does not acquire any valid title. Even the colour of title claimed by the purchaser was void. The beneficiary is entitled to have absolute possession free from encumbrances. In U.P. Jal Nigam v. Kalra Properties (P) Ltd., (1996) 3 SCC 124, this Court had further held that the purchaser of the property, after the notification under Section 4(1) was published, is devoid of right to challenge the validity of the notification or irregularity in taking possession of the land before publication of the declaration under Section 6. As regards laches in approaching the Court, this Court has been consistently taking the view starting from State of M.P. v. Bhailal Bhai, AIR 1964 SC 1006 : (1964) 15 STC 450, wherein a Constitution Bench had held that it is not either desirable or expedient to lay down a rule of universal application but the unreasonable delay denies to the petitioner the discretionary extraordinary remedy of mandamus, certiorari or any other relief. The same view was reiterated in a catena of decisions, viz.,

Rabindranath Bose v. Union of India, (1970) 1 SCC 84

State of Mysore v. V.K. Kangan, (1976) 2 SCC 895 AIR 1975 SC 2190

Aflatoon v. Lt. Governor of Delhi, (1975) 4 SCC 285

Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110 AIR 1970 SC 898

State of T.N. v. L. Krishnan, (1996) 1 SCC 250 JT (1995) 8 SC 1

Improvement Trust v. Jagjit Singh, 1987 Supp SCC 608

State of Punjab v. Hari Om Coop. House Building Society Ltd., 1987 Supp SCC 687

Market Committee v. Krishan Murari, (1996) 1 SCC 311 : JT

(1995) 8 SC 494, and State of Haryana v. Dewan Singh, (1996) 7 SCC 394 wherein this Court had held that the High Court was not justified in interfering with the acquisition proceedings. This Court in the latest judgment in Municipal Corpn. of Greater Bombay v. Industrial Development & Investment Co. (P) Ltd., (1996) 11 SCC 501 : JT (1996) 8 SC 16, reviewed the entire case-law and held that the person who approaches the Court belatedly will be told that laches close the gates of the Court for him to question the legality of the notification under Section 4(1), declaration under Section 6 and the award of the Collector under Section 11.”

13. Thirdly, the issue which now arises for consideration is that “*whether Section 101-A of the Act of 2013 can be invoked by landowners in a mechanical manner, without pointing any single cogent evidence on record, suggestive that the acquired lands have become “unviable” and “non-essential” for any efficacious use by acquiring authority concerned*”. This Court has already considered the scope and object of Section 101-A of the Act of 2013, in a judgment rendered in case titled “***Lalit Kumar and another vs State of Haryana and another***”, CWP-9666-2023. The relevant paragraphs of the judgment (supra) are reproduced as under:-

“16. This Court has examined the provisions of Section 101-A of the Act of 2013, in the light of the above laid down principle. For ready reference, Section 101-A of the Act of 2013 is reproduced as under:-

“101A. Power to denotify land.- When any public purpose, for which the land acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894) becomes unviable or non-essential, the State Government shall be at liberty to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the land owner due to such acquisition: Provided that where a part of the acquired land has been utilized or any encumbrances have

been created, the landowner may be compensated by providing alternative land alongwith payment of damages, if any, as determined by the State Government.”

17. A reading of the above extracted provisions elucidates that it is an enabling clause, giving right to the State Government, to de-notify such portion of lands, which according to the State, has become unviable and unessential. However, at this stage, we are not examining the constitutional validity of insertion of Section 101-A in the principal Act, by the State Government, thereby leaving this issue open for adjudication in an apt lis. Although there is no restraint on any landowner to approach the competent authority concerned to seek de-notification of his acquired lands, under the provisions (supra), however such landowner does not have any vested right to continue to retain his possession over the acquired lands, until their representation for release of acquired lands from acquisition, is ultimately decided. The provisions of Section 101-A of the Act of 2013 cannot be invoked in a mechanical manner, merely on asking of the petitioners/landowners concerned, to assert that they have vested right to seek de-notification of their acquired lands.

18. As has already been observed hereinabove, this is the third round of litigation, whereby the petitioners have primarily aimed at obtaining a relief to retain their illegal possession over the acquired lands. Moreover, the petitioners have not been able to point out any single cogent evidence on record suggestive that their acquired lands have become unviable or unessential for efficacious use by the acquiring authority concerned.”

14. In view of the above discussed settled legal proposition, since in the present case also, the acquisition proceedings stood lawfully terminated way back on 25.3.1983, therefore, Section 101-A of the Act of 2013, which is only an enabling clause for the acquiring authority to de-notify the acquired land, only if it becomes “unviable” and “non-essential” for any efficacious public purpose, does not give rise to a new cause of

action to challenge the validity of already lawful concluded acquisition proceedings.

15. The power to de-notify lands, by virtue of Section 101-A, can only be invoked when the twin statutory ingredients, i.e. lands becoming “unviable” and “non-essential” for any public purpose, are fulfilled. Therefore, the de-notification of acquired lands is only possible when such lands fall within the domain of the above prescribed twin conditions, which are the mandatory pre-conditions for the State Government to form a subjective opinion, while taking into consideration the larger public interest.

16. Moreover, it is also no more *res integra* that if after utilization of the acquired land for the relevant public purpose, some land still remains unutilized, it need not be returned to the original landowner, rather it can either be utilized for any other public purpose or it can be sold by way of public auction, so as to achieve the larger public interest. Gainful reference in this regard can be placed upon case titled “***State of Kerala v. M. Bhaskaran Pillai***”, ***AIR 1997 SC 2703***, wherein, the Hon’ble Supreme Court has held as under:-

“...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.....”

17. Also, the provisions of Section 101-A does not vest any discretionary power in the State Government for de-notification of the lands, which remained unutilized for a long span, rather the only permissible ground for de-notification is “unviability” or “non-essentiality” of the acquired lands for being put to **any efficacious public purpose. (emphasis supplied)**

18. The Hon’ble Apex Court in case titled “*Haryana State Industrial and Infrastructure Development Corporation Ltd. & Ors. V/s Mr. Deepak Aggarwal & Ors.*”, 2022(3) R.C.R. (Civil) 934, examined the scope and the extent of applicability of the provisions of the old Act of 1894, despite its repeal, in view of Section 24 of the Act of 2013. It has been held therein that Section 24 has been incorporated in the Act of 2013, by the legislature, as a balancing provision for controlling the extent of retrospectivity and for curtailing the erosion of right of landholders. The Hon’ble Apex Court, while arriving at the above conclusion, also observed that the legislature was fully aware of the fact that the lands acquired under the Act of 1894 are being used for several public purposes and will be required for infrastructural projects, therefore lapsing of everything on repeal of the Act of 1894 would be seriously detrimental to public interest and at the same time, the interest of landowners were also taken into account. The relevant extract of judgment (supra) reads as under:-

“22. The legislative intention behind bringing up the 2013 Act was to have a unified enactment facilitating land acquisition for industrialization, infrastructure and urbanization projects in a timely and transparent manner and at the same time, providing for just and fair compensation, to make adequate provision for rehabilitation and resettlement mechanism for affected persons and their families. As a preamble its objects and reasons have been given in the 2013 Act thus:

"An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto."

23. Bearing in mind the aforesaid legislative intention we will have to construe Section 24 and also the word 'initiated' employed in section 24(1), of the 2013 Act. The word 'initiated' has to be construed with a view to implement the aforesaid twin purposes of providing fair and just compensation and facilitating acquisition of land for industrialization, infrastructure and urbanization projects. We have already referred to the impact of 'initiation' of land acquisition proceedings and its culmination in an award under Section 11 of the L.A. Act and also non-culmination in such an award.

24. For a proper and purposive construction of the word

'initiated', in the contextual situation it will not be inappropriate to look into the legislative history of Section 24 of the 2013 Act as well, as explained in the written submission filed on behalf of HSIIDC/STATE/COMMITTEE dated 11.04.2022. However, we do not deem it necessary to refer to or to deal with it, in detail. In short, it is stated therein that the events happened prior to the drafting of Section 24, as it exists on the statute book today, is a safe guide to cull out the legislative intent in formulating Section 24 in the 2013 Act, by the legislature. Furthermore, it is stated therein that the legislature was fully aware of the fact that lands acquired under the L.A. Act were already being used for several public purposes and more particularly for infrastructural projects and large number of acquisition proceedings under the L.A. Act, relating large number of public projects for various public purposes, are in progress at various stages. Hence, lapsing of everything would be seriously detrimental to public interest and at the same time, the interest of land holders is also taken into account. The consideration of all such relevant aspects and the pros and cons made the legislature to come up with a balancing provision under Section 24(1)(a) and clauses therein, in the 2013 Act. This was incorporated as a balancing provision for controlling the extent of retrospectivity and for curtailing the erosion of rights of land holders. (emphasis supplied)"

19. Furthermore, in ***“Indore Development Authority v. Manoharlal”***, 2020 AIR (Supreme Court) 1496, the Hon’ble Supreme Court while examining the scope and extent of the applicability of Section 24(2) of the Act of 2013, has held that the legislature did not insert this provision to give rise to a new cause of action to question the legality of concluded proceedings of land acquisition. The relevant para is extracted below:-

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

1. to 8. XX XX

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.”

20. Lastly, acquisitions of lands are made in public interest and if there is no procedural lapse in acquisition proceedings, then priority should be assigned to public interest than to individual or private interest. It is for the acquiring authority to assess whether the acquired land has become “unviable” or “non-essential”. Though, this Court can exercise the power to review the decision of the authority in reaching the conclusion (supra), but simultaneously, we are of the view that a mandamus upon the authority concerned, to consider the relevant representation for de-notification of the acquired land, on mere assertions of the landowner on the drop of the hat, cannot be made, specifically, when no cogent or substantive evidence is brought forth before this Court to establish that the land which was acquired 4 decades back, has now become “unviable” and “non-essential”.

21. As a consequence of the hereinabove assigned reasons, this Court finds no merit in the instant writ petition and the same is accordingly dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

July 19, 2023
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No