



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 18th November 2024*

+ W.P.(C) 6617/2015

SHATABDI BUILDERS & PROMOTERS PVT. LTD.

.....Petitioner

Through: Ms Esha Mazumdar, Mr Setu Niket, Ms Unnimaya S., Mr Ishan Singh and Mr. Devansh, Advs.

versus

LT. GOVERNOR OF DELHI & ORS

.....Respondents

Through: Ms Shobhana Takiar, Standing Counsel for DDA with Mr Kuljeet Singh, Mr. Prateek, Mr. Shivam, Advs.
Ms. Ruchika Rathi, Adv. for R-3,4.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioner is invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking a declaration in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.¹ The petitioner has claimed the following reliefs in the instant writ petition: -

“(a) writ of Certiorari or any other appropriate writ, order or direction in the nature thereof, quashing Declaration u/s 6 bearing

¹ 2013 Act



No. F.11(17)/91/L&B/LA of the said Act dated 26/04/1996, the Award bearing no. 1/98-99 dated 24/04/1998 and in consequence thereto quashing Notification No. F.11(17)/91/L&B/LA dated 26/04/1995 u/s 4 of the Land Acquisition Act, 1894;

(b) writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, thereby directing the Respondents to denotify the lands of the Petitioner bearing Khasra No. 43/14/3(2-00) and 43/16/2(1-14) 43/17(4-4) and 43/18(1-2), Village Sahibabad Daulatpur, Delhi;

(c) Issue a declaration that the land acquisition proceedings of the lands of the Petitioner i.e. Khasra No. 43/14/3(2-00) and 43/16/2(1-14) 43/17(4-4) and 43/18(1-2), Village Sahibabad Daulatpur, Delhi is deemed to have been lapsed;

(d) Award appropriate costs in the facts and circumstances of the case.

(e) Any other or further order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be passed/ issued in favour of the Petitioner."

FACTUAL BACKGROUND:

2. Shorn of unnecessary details, the petitioner, a private limited company incorporated under the Companies Act, claims itself to be the absolute owner of lands bearing Kh. No. 43/14/3(2-00) and 43/16/2(1-14) 43/17(4-4) and 43/18(1-2)² located in the revenue village of Shahbad Daulatpur, Delhi. The petitioner contends that the respondents previously notified these lands in question of the petitioner under Sections 4 and 7 of the Land Acquisition Act, 1894³, through Notification No. F.11(17)/91/L&B/LA dated 26.04.1995, for the public purpose of the Rohini Residential Scheme.

3. It is further stated that a final declaration under Section 6, read with Section 17 of the 1894 Act, was issued through Notification No. F.11(17)/91/L&B/LA dated 26.04.1996. Subsequently, the Land

² Lands in question

³ 1894 Act



Acquisition Collector⁴ (NW), in furtherance of the notifications issued under Sections 4 and 6 of the 1894 Act passed an Award bearing No. 1/98-99 dated 24.04.1998. The petitioner asserts that since the provisions of Section 17 were invoked in this acquisition, the applicability of Section 5-A was dispensed with, depriving the petitioner of their constitutional and legal right to object to the proposed acquisition.

4. It is further submitted that while the award for the lands in question was passed on 24.04.1998, the Respondents had taken possession of the land on 13.01.1997, prior to the passing of the award. Since possession was taken before the award and under the applicability of Section 17 of the 1894 Act, it was done without the mandatory payment of compensation as required under Section 17 of the 1894 Act. This non-compliance, the petitioner contends, vitiates the entire acquisition proceedings, rendering the possession taken unlawful and invalid in the eyes of the law. It is submitted that the petitioner, being unaware of the impugned notifications concerning the lands in question, neither filed objections or claims nor challenged the said notifications.

5. It is further averred that in 2002, upon becoming aware of the acquisition of its lands, the petitioner conducted an inquiry and was shocked to learn that the lands in question had been vested in favour of the Gram Sabha, Shahbad Daultpur, by an order dated 26.08.1995 of the Court of Revenue Assistant, Alipur, Delhi, under Section 81 of

⁴ LAC



the Delhi Land Reforms Act, on the ground of non-agricultural use. The petitioner asserts that this order was passed without issuing any notice to the petitioner or its predecessor-in-interest, thereby denying them the opportunity to present their case. Consequently, the petitioner contends that the order is illegal, violative of the principles of natural justice, and *void ab initio*. The order dated 26.08.1995 passed by the Revenue Assistant is reproduced below: -

“IN THE COURT OF SUB DIVISIONAL MAGISTRATE:
KINGSWAY CAMP/ DARYA GANJ: P.A (ALIPUR): ROOM
NO. 142-TIS HAZARI COURT: DELHI

Ca. No. 360/RA/90

Gaon Sabha Sahabad Daulatpur
Vs. Smt. Vidya
U/S 81 of DLF Act

ORDER

Vide this order dated 17/1/92 u/s 81 of D.L.F. Act. It was proved that Khasra No. 43/16/26 (1014), 17 (404), 18 (1-2) 14/3(2-0) has been converted to non-agricultural use by the respondent thereby contravening the provisions of section 81 of Delhi Land Reforms Act. The respondent was directed by the above order to convert the suit land back to agricultural use within three months failing which he was to be ejected from the above land in dispute and his rights on the suit land be extinguished. The patwari through Tehsildar has reported that the suit land has not been converted to agricultural use by the respondent.

I, therefore, order that respondent stands ejected from the suit land and said land be vested in the Gaon Sabha with immediate effect.

Announced. 26/8/95

(S.S. SIDHU)
(REVENUE ASSISTANT: ALIPUR:
DELHI.”

6. Subsequently, the petitioner filed a claim before the LAC⁵, District North West, Delhi, seeking the release of compensation as the

⁵ Land Acquisition Collector



rightful and lawful owner of the lands in question. In response, the LAC referred the dispute under Section 30 of the 1894 Act, to the Court of the Additional District Judge, Delhi, for adjudication on the extent and quantum of compensation payable to the petitioner. The LAC also remitted the compensation deposited with the Revenue Department to the said court. However, the petitioner submits that the amount remitted included only the compensation (with interest) calculated up to the date of the award, i.e., 24.04.1998. The interest payable from the date of the award until the payment or remittance to the court, as mandated under Section 34 of the 1894 Act, was not computed or deposited. This omission, the petitioner contends, constitutes a failure to deposit the award with the court in compliance with the statutory requirements of the Act.

7. The petitioner relies on the decision by the Apex Court in **Pune Municipal Corporation & Anr. v. Harakchand Misrimal Solanki & Ors.**⁶ and submits that the essential prerequisite as mandated under the aforesaid judgment was either an offer to the person interested or deposit in the court under Section 18 of the 1894 Act. It is further submitted that the term "deposit" under the 1894 Act, implies the complete deposit of compensation, including the computation of interest as mandated under Section 34 of the 1894 Act. In the present case, this statutory requirement was not fulfilled, as only the amount computed at the time of passing the award was remitted to the Court of the Additional District Judge, Delhi, upon receipt of the objections/claim filed by the petitioner.



8. The petitioner avers that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013⁷ came into effect on 01.01.2014. The petitioner contends that, in view of Section 24 of the 2013 Act, the ongoing acquisition proceedings are liable to be set aside.

SUBMISSIONS ADVANCED AT THE BAR

9. The petitioner contends that, pursuant to Section 24(2) of the 2013 Act, it is explicitly provided that the acquisition proceedings are liable to lapse. The legislative intent, as per the petitioner, unequivocally stipulates that if the award was made more than five years prior to the commencement of the 2013 Act and the compensation remains unpaid, the proceedings must be deemed to have lapsed. Despite the issuance of Award No. 1/98-99 dated 24.04.1998, the respondents have neither been paid nor tendered the compensation to the petitioner.

10. The petitioner also contends that no notice was ever given to the petitioner under Section 12(2) of the 1894 Act and reliance has been placed on **Birendra Nath Banerjee & Ors. v. Mritunjoy Roy & Ors.**⁸, wherein it was observed as follows: -

“...Under Section 12(2) of the Act the Collector shall give immediate notice of his award to such of the persons interested as were not present personally or by their representatives, when the award was made....”

11. The petitioner further contends that the Respondents took possession of the land in question in contravention of Section 17(3-A)

⁶ AIR 2014 SC 982

⁷ 2013 Act

⁸ AIR 1962 CALCUTTA 275



of the 1894 Act, thereby rendering the entire possession proceedings unlawful and *void ab initio*. It is argued that the compensation was not deposited in court as mandated by the provisions of Section 34 of the 1894 Act. Consequently, the compensation was not deposited in accordance with the requirements of the Act and the conditions laid down by the Apex Court in ***Pune Municipal Corporation (supra)***.

12. *Per contra*, learned counsel for respondent No. 2/DDA contends that the present writ petition is liable to be dismissed on the ground that the actual physical possession of the land in question was taken by the government on 13.01.1997. It is argued that the petitioner failed to take any action until at least 2002, thereby demonstrating the petitioner's acceptance and acquiescence to the acquisition proceedings, with no challenge raised on any grounds during the intervening period. Furthermore, it is submitted that the writ petition is barred by limitation, as the acquisition proceedings were completed in 1997, yet the petitioner has challenged the same only in 2016.

13. It is stated by learned counsel for the DDA that the reliance placed by the petitioner on Section 24(2) of 2013 Act is unfounded and misconceived. It is argued that the petitioner has failed to appreciate the true intent and scope of Section 24(2). According to the respondents, the provision was not intended to annul acquisition proceedings conducted under the 1894 Act, as is being projected by the petitioner. It is further contended that the interpretation advanced by the petitioner is contrary to the objects and reasons of the 2013 Act. The lapsing of acquisition proceedings, as contemplated under Section 24 of the 2013 Act, applies to the entire award and not selectively, as



is evident from the plain language of the statute. Hence, the petitioner's argument is inconsistent with the legislative intent and the statutory framework of the 2013 Act.

14. It is further submitted that the petitioner claims to have become the owner of the subject land on 02.04.1990; however, it is evident that due to the misuse of agricultural land, the said land vested with the Gaon Sabha by order dated 28.08.1995. The writ petition conspicuously remains silent regarding any actions or claims by the petitioner during the period from 1995 to 2002. It is stated that the petitioner subsequently moved an application seeking compensation, but as per the award, the recorded owner was shown as the Gaon Sabha. Consequently, the LAC deposited the entire compensation under Sections 30 and 31 of the 1894 Act. Since the acquisition proceedings concerning the lands in question have already attained finality under the 1894 Act, the present writ petition is untenable and deserves dismissal.

ANALYSIS & DECISION

15. We have given our thoughtful consideration to the issues raised and canvassed by the learned counsels at the Bar and we have also gone through the record.

16. It would be expedient to reproduce the provisions of Section 24 of the 2013 Act, which provides as under:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—



(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

17. A careful review of the 2013 Act, which came into effect on January 1, 2014, reveals the following: if an award was made under Section 11 of the 1894 Act more than five years prior to the commencement of this Act, and physical possession was not taken or compensation paid, the acquisition is deemed to have lapsed. This allows the appropriate government to initiate fresh proceedings for land acquisition in accordance with the provisions of the Act.

18. Having said that, reliance placed by the petitioner upon the decision in *Pune Municipal Corporation (supra)* is misplaced since the same stands overruled by the Constitution Bench of the Apex



Court in Indore Development Authority v. Manoharlal and Ors⁹,

where it was held as under:

“365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353] cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra [(2018) 3 SCC 412], the aspect with respect to the proviso to Section 24(2) and whether “or” has to be read as “nor” or as “and” was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.

366. In view of the aforesaid discussion, we answer the questions as under:

366.1. 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 the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.

366.2. 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 2013 Act under the 1894 Act as if it has not been repealed.

366.3. 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 2013 Act 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.

366.4. The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the

⁹ (2020) 8 SCC 129



2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 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 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, 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). The landowners 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 2013 Act.

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

366.7. The mode of taking possession under the 1894 Act 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 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).

366.8. 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 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned 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.

366.9. Section 24(2) of the 2013 Act 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 2013 Act 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.”

19. Incidentally, a three Judges Bench of the Supreme Court in a recent case titled **Govt. of NCT of Delhi v. M/s K.L. Rathi Steels**



Limited¹⁰ has addressed the conflict arising out of the *Pune Municipal Corporation (supra)* and *Indore Development Authority (supra)* pertaining to land acquisition proceedings holding that the latter decision in *Indore Development Authority* shall be holding the field.

20. Reverting to the instant matter, Award No. 1/1998-199 in respect of land of village Shahbad Daulatpur, Delhi was passed about 15 years and 8 months prior to the enforcement of the 2013 Act w.e.f 1st January, 2014 but evidently the possession had already been taken over by the respondent on 13.01.1997 and the land in question stood vested with the Government in terms of section 16 & 17 of the 1894 Act free from all encumbrances thereupon. Further, since it was the Gaon Sabha which was the recorded owner/bhumidar of the parcel of land in question, the compensation stood deposited under Sections 30 & 31 of the 1894 Act.

21. Upon learning about the land acquisition in village Sahabad Daulatpur, Delhi, and its vesting in the Gaon Sabha through an order dated August 28, 1995, under Section 81 of the Delhi Land Reforms Act, the petitioner approached the Land Acquisition Collector (LAC) seeking compensation as the rightful owner. The matter was subsequently referred under Section 30 of the 1894 Act, which eventually came to be adjudicated by the learned Additional District Judge *vide* judgment dated 23.04.2015, holding that the petitioner was the lawful owner of the land in question, having purchased the same

¹⁰ Misc. Application No. 414 of 2023 in Civil Appeal No. 11857/2016 dated 17.05.2024



from Smt. Vidya, who was the recorded owner/bhumidar of the parcels of land in question measuring 9 bighas in village Shahbad Daulatpur, Delhi; and thus, it was directed that the petitioner be paid the entire amount of compensation in respect of the acquired land.

22. The petitioner acknowledges that they came to know of the acquisition of the subject property in the year 2002 but they never laid any challenge for almost thirteen years to the acquisition proceedings, and thus, such stale claim lodged by the petitioner cannot be entertained in view of decision of the Supreme Court in the case of **Mahavir v. Union of India**¹¹

23. Lastly, since no blemish could be fastened on the LAC for considering the Gaon Sabha as the recorded owner/bhumidar after passing of the award, and since the amount of compensation was deposited in a timely manner, neither any prejudice in terms of section 12(2) of the 1894 Act nor any claim for interest on the compensation can be claimed either by the petitioner.

24. In view of the foregoing discussion, the present writ petition is devoid of any merits, and therefore, hereby dismissed.

YASHWANT VARMA, J

DHARMESH SHARMA, J.

NOVEMBER 18, 2024

Sadiq

¹¹ (2018) 3SCC 588.