In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya

MAT No. 137 of 2025
IA No: CAN 2 of 2025

The State of West Bengal and Others
– Versus –
Abhijit Ghosh and Others

For the appellants	:	Mr. Susovan Sengupta, Sr. Govt. Adv., Mr. Hare Krishna Halder
For the respondents	:	Mr. Debayan Bera, Mr. Sakti Prasad Chakraborti
Heard on	:	13.11.2025, 20.11.2025, 04.12.2025 & 11.12.2025
Reserved on	:	11.12.2025
Judgment on	:	22.12.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against a judgment dated August 23, 2024 passed in WP No. 17016 (W) of 2015, whereby the learned Single Judge was pleased to dispose of the said writ petition, *inter alia* holding that the acquisition proceeding in respect of the subject-plots of land had lapsed by operation of Section 11A of the Land Acquisition Act, 1894 (hereinafter referred to as "the LA Act") and directed the State/appellants to initiate a fresh acquisition proceeding in accordance with the relevant statute and determine compensation in accordance with law and to pay the same to the writ petitioners/present respondents, if they are entitled to the same.

2. In brief, the facts of the case are as follows:

3. On May 19, 1950, a Notification, bearing no. 5382 L.Dev., was issued under Section 4 of the West Bengal Land Development and Planning Act, 1948 (for short, "the LDP Act"). A Declaration under Sections 6 and 7 of the LDP Act, bearing no. 5384 L.Dev., was also issued on the same date, published in the Calcutta Gazette on June 01, 1950.

4. The said Notification and Declaration were issued in respect of several plots, including CS Plot Nos. 3074, 3083 and 3085 (entire plots) as well as CS Plot Nos. 3077 and 3075 (in part). The writ petitioners/respondents restricted their claim for compensation before the writ court only in respect of the abovementioned plots. One Anukul Chandra Ghosh, the predecessor-in-interest of the writ petitioners/respondents, was the absolute owner of the aforementioned plots in Mouza – Beleghata under Police Station – Baranagar in the District of North 24 Parganas. The total area of land, acquired for the purpose of settlement of immigrants, measured about 12.40 acres.

5. A Possession Certificate was issued in respect of the said plots in the name of the said Anukul (since deceased), indicating that the possession of the lands was taken by the State on November 12,

1950. The connected acquisition proceeding was numbered as LDP Case No. 93 of 1949-1950.

6. Thereafter, a Notification was issued on March 17, 1951, published on April 5, 1951, purportedly withdrawing the acquisition in respect of some of the plots. A still subsequent Declaration dated September 4, 1951 was published on September 7, 1951, and a second Possession Certificate was issued on May 24, 1952 in respect of different plots of land, including Plot Nos. 3083 and 3085 in their entirety and portions of Plot Nos. 3075 and 3077.

7. On August 21, 1956, an ad hoc payment of 80% of the estimated compensation was made to the said Anukul, in terms of GO No. 2414–Rehab dated March 30, 1954 and GO No. 35087–Rehab dated February 29, 1956.

8. The said Anukul wrote a letter to the appropriate authorities on February 12, 1957, asking when he would get the payment of the balance compensation.

9. Thereafter, another Declaration was issued on November 8, 1979, disclosing that it was in terms of the May 19, 1950 Notification. The said Declaration dated November 8, 1979 was numbered as 448 L.Dev./5D–2/78 and was purportedly issued under Section 6(a) of the LDP Act. The coverage of the plots was the same as the Notification dated May 19, 1950.

10. Thereafter, the writ petition from which the present appeal arises, that is WPA No. 17016 of 2015, was filed by the writ petitioners/respondents, the heirs and legal representatives of

Anukul, *inter alia* seeking issuance of a writ in the nature of mandamus, commanding the respondents/present appellants to complete the acquisition proceeding bearing LDP Case No. 93 of 1949-1950 by declaring an award in accordance with law, as well as a mandamus commanding the respondents/appellants to initiate a fresh proceedings for acquisition of lands in accordance with law and to declare award invoking the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in brief, "the 2013 Act"), as well as for consequential reliefs.

11. The said writ petition culminated in the impugned judgment dated August 23, 2024, whereby the learned Single Judge held that the original acquisition proceeding had lapsed, further observing that since the entire acquisition proceeding stood lapsed by operation of law, the payment of compensation to the tune of 80% of the land value to the original owner of the land-in-question, if any, is of no relevance and cannot save the lapsing of such proceeding.

12. It was further recorded that it is not in dispute that the lands of the petitioners have been utilised for the purpose for which the declaration under Section 6 of the LDP Act was published and therefore, the State should be directed to take steps to initiate a fresh acquisition proceeding in accordance with the relevant statute and to determine the compensation in accordance with law. Consequential directions were also passed accordingly.

13. Challenging the said judgment, the present appeal has been preferred by the State-Authorities.

14. Learned Senior Government Advocate, appearing for the appellants, argues that in view of the concerned acquisition being under the LDP Act and not the LA Act, the provisions of the 2013 Act would not be applicable. Learned counsel places reliance on Section 24 of the 2013 Act, in sub-section (1) of which it has been provided that in any case of land acquisition proceeding initiated under the LA Act, where no award under Section 11 of the LA Act has been made, all provisions of the 2013 Act relating to the determination of compensation shall apply. It is submitted that since the acquisition was not under the LA Act but under a different statute, that is, the LDP Act, the 2013 Act is not attracted at all.

15. Learned counsel relies on a co-ordinate Bench decision of this Court in *State of West Bengal v. Niladri Chatterjee*, reported at *2017 (4) CHN (CAL) 451*, where it was held that if the proceeding is not initiated under the LA Act, the provisions of the 2013 Act would not be attracted.

16. Learned Senior Government Advocate also cites *Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173*, where, in connection with an acquisition under the Bangalore Development Authority Act, 1976 (for short, "the BDA Act"), it was observed that what has sought to be saved under Section 24 of the 2013 Act is only acquisitions which have been initiated under the LA Act and not those acquisitions which have been initiated under any other Central or State enactments.

17. Learned Senior Government Advocate next argues that the LDP Act is a complete Code in itself for acquisition of lands. The provisions of Section 8 of the said Act, both prior to and after the 1955 Amendment to the said Act, provides only for determination of market value under Section 23(1) of the LA Act and applies the LA Act for such limited purpose, that too after the process of acquisition is over. The market value should be determined on the basis of the prices of land on the date of publication of the Notification under Section 4 of the LDP Act. Thus, the LA Act was not directly made applicable to the LDP Act but only certain provisions thereof were applied *mutatis mutandis*.

18. Learned Senior Government Advocate further relies on *Bangalore Development Authority (supra)*[1], where it was stated that incorporation of an earlier Act into a later Act is a legislative device for the sake of convenience in order to avoid verbatim reproduction of the provisions of the earlier Act into the later Act. Once the incorporation is made, the provisions of the incorporated statute become an integral part of the statute in which it is transferred and thereafter there is no need to refer to the statute from which incorporation is made and any subsequent amendment made in it has no effect on the incorporating statute.

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1. ***Bangalore Development Authority and Another v. State of Karnataka and Others,*** **reported at *(2022) 14 SCC 173***

19. It was further reiterated that all the provisions cited in the said case showed that the BDA Act has provided for a complete adjudicatory process for determination of the rights and claims and only in regard to the matters which are not specifically dealt with in the BDA Act, reference to the LA Act has been made, for example, acquisition of land and payment of compensation, which is also a pointer to the BDA Act being a self-contained Act.

20. Applying the above principle to the facts of the said case, it was held that it would be clear that the provisions relating to acquisition like passing of an award, payment of compensation and legal remedies available under the Central Act would have to be applied to the acquisition under the State Act but the bar in Sections 6 and 11-A of the Central Act (LA Act) cannot be made an integral part of the State Act as the State Act itself has provided specific time-frames under its various provisions as well as consequences of default thereof.

21. Thus, it is contended by the appellants that the amendments to the LA Act, including the introduction of Section 11-A in the LA Act in 1984, subsequent to the incorporation of the LA Act into the LDP Act, do not apply at all in the present case.

22. It is next contended by the appellants that Section 8 of the LDP Act incorporates “arable” (cultivable) land within the categories of land of which possession can be taken by the Collector, as per the direction of the State Government, at any time after the declaration is made under Section 6 of the said Act, upon which the said land shall vest absolutely in the State free from all encumbrances. Therefore, since the physical possession of the lands-in-question was taken in November, 1950, as on the date of possession, the lands vested absolutely in the State. Once vested, even the State does not have the power to divest the same. It is further submitted that from the Possession Certificate issued to Anukul, the predecessor-in-interest of the writ petitioners/respondents, on November 20, 1950, the factum of possession being taken over by the State would be evident. Moreover, Anukul was paid 80% of ad hoc compensation, although subsequently, pursuant to such possession. Hence, the learned Single Judge erred in law in holding that the proceeding has lapsed since, once vested, there cannot be any lapse of proceeding but the only procedure which remains to be undertaken is calculation of the total compensation and grant of award of such compensation in favour of the land losers.

23. It is further argued that in view of the doctrine of incorporation of statutes, the provisions of the LA Act have been incorporated to a limited extent, only in respect of calculation of compensation, and Section 11A of the LA Act, which contemplates lapse of the acquisition proceeding itself if award is not declared within two years from the declaration, does not apply to the present case at all.

24. The State-Authorities next contend that in view of Anukul, the predecessor-in-interest of the respondents, having accepted ad hoc compensation and seeking balance compensation subsequently, as well as the writ petitioners/respondents making the same prayer, the writ petitioners are estopped from challenging the acquisition process itself. The original land loser Anukul having not challenged the acquisition proceeding during his lifetime, it is argued that he waived such right, which is binding on his heirs and legal representatives, that is, the present writ petitioners/respondents.

25. Learned senior counsel places reliance on *Niladri Chatterjee (supra)*[2] in such context.

26. Learned counsel for the writ petitioners/respondent nos. 1 and 2, on the other hand, argues that upon the issuance of a fresh declaration on November 8, 1979, which was subsequently published in the Official Gazette, all previous actions, including declaration, cancellation of declaration, possession, etc., became redundant. In view of no fresh possession having been taken after November 8, 1979, the acquisition proceeding itself lapsed by operation of Section 11-A of the LA Act.

27. Learned counsel argues further that since the procedure contemplated under the LA Act has been applied to the LDP Act by the later Act itself, after the declaration contemplated under Section 6 of the LDP Act, the entire provisions of acquisition and declaration of award, including Section 11-A of the LA Act, are applicable.

28. Learned counsel further argues that the payment of 80% compensation was made much later than the declaration and, as such, does not come to any avail to the State. It is argued that in case of emergency acquisition, such as under Section 17 of the LA

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2. ***State of West Bengal v. Niladri Chatterjee*, reported at *2017 (4) CHN (CAL) 451***

Act, payment of 80% estimated compensation is a pre-requisite of taking possession. If paid much after possession, the provisions of emergency acquisition cannot apply, as in the present case. Thus, it is argued that such payment has no bearing on the lapse of the acquisition proceeding.

29. Learned counsel appearing for the writ petitioners/respondents relies on *State of West Bengal and Others v. Aziman Bibi and Others*, reported at *(2016) 15 SCC 710*, in support of such proposition, where the lapse contemplated under Section 11-A of the LA Act was applied to a notification and declaration, respectively under Sections 4 and 6 of the LDP Act. It is submitted that both a review petition and a subsequent curative petition in respect of the said judgment were dismissed, thereby upholding the proposition laid down therein.

30. It is next contended by the writ petitioners/respondents that the vesting under Section 8 of the LDP Act was illegal from several perspectives. Even apart from the successive declarations and possession after the initial purported possession, the previous possession was nullified in view of the Possession Certificate issued to Anukul having not specified the classification or nature of the plots of which possession was taken. It is argued that the possession taken by the Collector without determining the nature of the land was bad in law.

31. In support of such contention, learned counsel for the respondents cites a judgment of a learned Single Judge of the Allahabad High

Court in *Lachhmi Narain and others v. The State*, reported at *AIR 1957 Allahabad 816*.

32. Placing reliance on *Delhi Airtech Services Pvt. Ltd. and Another v. State of U.P. and Another*, reported at *2022 SCC OnLine SC 1408*, the respondents contend that if possession is illegally taken, the vesting is rendered illegal, which is no vesting at all in the eye of law. The effect would be that there was no question of divesting of the lands-in-question. No award having been passed within the statutory period of two years as stipulated in Section 11-A of the LA Act, the acquisition process itself lapsed.

33. It is further argued that since possession was not taken after the last declaration, published on May 1, 1980, in respect of the five CS Plots mentioned in the Notification dated January 11, 2013, which are the subject plots, there was never any vesting in respect of the said plots and the proceeding has lapsed by operation of law since no award was passed.

34. Learned counsel for the writ petitioners/respondents next submits that there was no waiver at any point of time, since Anukul submitted a claim petition for the balance compensation before the then LA Collector, 24 Parganas on August 27, 1953 and thereafter, several representations were also made. Anukul died intestate on May 15, 1960 and some of the surviving heirs of Anukul also submitted a claim petition before the LA Collector, North 24 Parganas, for balance compensation and for declaration of award, despite which no award was passed.

35. On April 18, 2001, WP No. 6525 (W) of 2001, a writ petition filed by some of the land losers, was disposed of and a contempt petition was also filed for violation of the said order. Subsequently, a fresh Notification under Section 9 of the LA Act was published on January 11, 2013, even after which no award was passed, due to which the present writ petition had to be filed.

36. Thus, in view of the consistent claims for compensation and for passing of award by Anukul and his heirs throughout the relevant period, there was no waiver at any point of time. In support of such proposition, learned counsel for the respondents cites the following judgments:

(i) *Ram Chand and Others v. Union of India and Others*, reported at *(1994) 1 SCC 44*;

(ii) *Tukaram Kana Joshi and Others Through Power-of-Attorney Holder v. Maharashtra Industrial Development Corporation and Others*, reported at *(2013) 1 SCC 353*;

(iii) *Vidya Devi v. State of Himachal Pradesh and Others, reported at (2020) 2 SCC 569;*

(iv) *Sukh Dutt Ratra and Another v. State of Himachal Pradesh and Others*, reported at *(2022) 7 SCC 508*; and

(v) An unreported Co-ordinate Bench judgment of this Court in *The State of West Bengal & Ors. v. Pranab Kumar Mukherjee [MAT 71 of 2018]* dated August 18, 2023.

37. Learned counsel for the respondents further argues that by operation of the 2013 Act, for the purpose of calculation and award of compensation, the proceeding would be deemed to survive to such limited extent. Since Section 8 of the LDP Act provides that upon acquisition, the provisions of the LA Act would apply, an award has to be declared under the LA Act.

38. On and from January 1, 2014, the LA Act was repealed by Section 114 of the 2013 Act. Under sub-section (2) of Section 114, Section 6 of the General Clauses Act was also made applicable to proceedings initiated under the LA Act. Therefore, even if it is assumed that the proceeding under the LDP Act did not lapse, by necessary implication, it would be deemed to be pending under the LA Act for the limited purpose of declaration of award. The necessary consequence thereof would be that after the repeal of the LA Act by Section 114 of the 2013 Act, the provisions of Section 24(1)(a) of the 2013 Act with regard to compensation would be applicable. Hence, it is argued that the learned Single Judge was justified in directing fresh acquisition proceedings to be initiated under the 2013 Act.

39. It is next submitted by the respondents that even if the proceeding did not lapse, award cannot be declared on the basis of the initial date of notification. By necessary legal fiction, the date of notification should be shifted to a later date for the purpose of assessment of compensation, since the delay occasioned was on the part of the State-Authorities.

40. In support of such contention, learned counsel for the respondents relies on *Bernard Francis Joseph Vaz and Others v. Government of Karnataka and Others*, reported at *(2025) 7 SCC 580*.

41. Upon considering the arguments of both parties and on perusal of the materials on record, the following questions arise for adjudication in the present appeal:

(i) ***Whether the 2013 Act is applicable for calculation of compensation in the present case;***

(ii) ***Whether the acquisition proceeding in the present case lapsed under Section 11-A of the LA Act;***

(iii) ***Whether the subsequent declarations and possessions vitiated the earlier possession taken in 1950;***

(iv) ***Whether the possession taken under Section 8 of the LDP Act was illegal; and***

(v) ***Whether the writ petitioners/respondents and/or their predecessor-in-interest waived their right to challenge the acquisition process.***

42. The said questions are answered as follows:

(i) ***Whether the 2013 Act is applicable for calculation of compensation in the present case***

43. Section 114 of the 2013 Act repealed the LA Act.

44. However, the provision relevant to decide the issue at hand is Section 24(1)(a) of the 2013 Act, which creates a legal fiction that notwithstanding anything contained in the said Act, in any case of land acquisition proceedings *initiated under the LA Act*, where no award under Section 11 of the LA Act has been made, all provisions of the 2013 Act relating to the determination of compensation shall apply. Therefore, in cases where an acquisition proceeding is already initiated under the LA Act, although the subsequent paraphernalia of the LA Act, including the modalities of calculation of compensation, passing of award, and even the rigour of lapse of the procedure under Section 11-A of the LA Act were abrogated, the acquisition proceeding itself would be kept alive for the limited purpose of calculation and declaration of award, which would be governed now by the 2013 Act.

45. The key phrase used in the above provision is "initiated under the LA Act". Insofar as the present acquisition process is concerned, the same was not initiated under the LA Act but under the LDP Act, the former being a Central Statute whereas the latter a State Act.

46. Notably, an acquisition under Section 8 of the LDP Act is an acquisition under the said Act, and not under the LA Act. Thus, Section 24 (1) (a) of the 2013 Act is not attracted to such an acquisition process at all.

47. Such view is further endorsed by the scheme of the 2013 Act itself. It is a Central Act and repeals only another Central Act standing on a parallel footing holding the field till then, that is, the LA Act.

Section 114 of the 2013 Act, which is its repealing provision, does not repeal any other statute, far less any State enactment. Thus, simultaneously with the repeal of the LA Act, acquisition proceedings already commenced thereunder, where awards had not yet been passed, were kept alive by a deeming fiction and taken within the fold of the eco-system of the 2013 Act for the purpose of calculation and grant of compensation.

48. In fact, Sections 24 and 114 of the 2013 Act complement and complete each other, forming a quantum entanglement in the legal sense. Since Section 114 does not repeal any other statute than the LA Act, far less any State enactment, taking out its consort, Section 24 of the 2013 Act, and applying it in isolation to other statutes than the LA Act would be entirely out of place and create a truncated legal fiction, which is not intended by the 2013 Act itself.

49. Seen from such perspective, although the LA Act itself was repealed from January 1, 2014 by introduction of the 2013 Act, the LDP Act was never repealed by the said Act. The provisions of the LA Act, which were incorporated in the LDP Act, became a part of the latter Act. Hence the LDP Act, being a complete Code in itself, was not affected at all by the enactment of the 2013 Act.

50. Thus, the 2013 Act is not applicable for calculation of compensation in the present case, which was initiated under Section 8 of the LDP Act and not under the LA Act.

(ii) ***Whether the acquisition proceeding in the present case lapsed under Section 11-A of the LA Act***

51. Two judgments of the Hon'ble Supreme Court, cited by the respective parties, are of seminal importance in deciding this issue – *Aziman Bibi (supra)*[3] and *Bangalore Development Authority (supra)*[4].

52. In *Aziman Bibi (supra)*[3], the Hon'ble Supreme Court, while considering an acquisition under the LDP Act, held that in view of the failure of the competent authority to make a proper award within the time stipulated, the award had lapsed. In this connection, it was observed further that it is true that the said enactment does not provide for a time-limit within which the Collector must make and publish an award but that does not make any material difference in the light of Section 8 of the State enactment, which applies the provisions of the LA Act to the proceedings for their completion, including making of an award and determination of the compensation after the declaration under Section 6 is published. It was also held that Section11-A of the LA Act, added to the statute in September, 1984, provides that the award shall be made under Section 11 of the said Act within a period of two years of the declaration under Section 6 of the said Act and if no award is made within the said period, the entire process of acquisition shall stand lapsed.

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3. ***State of West Bengal and Others v. Aziman Bibi and Others, reported at (2016) 15 SCC 710***

4. ***Bangalore Development Authority and Another v. State of Karnataka and Others,*** **reported at** ***(2022) 14 SCC 173***

53. In *Bangalore Development Authority (supra)*[5], the same proposition directly came up for consideration, although not under the LDP Act but the BDA Act, both which contain similar provisions inasmuch as incorporating the provisions of the LA Act is concerned. Section 36 of the BDA Act provides that acquisition of the land under the said Act is regulated by the provisions of the LA Act so far as they are applicable. By placing reliance on *LAO v. Anasuya Bai*, reported at *(2017) 3 SCC 313*, the Supreme Court, in *Bangalore Development Authority (supra)*[6], held that the provisions of Section 24(2) of the 2013 Act would not make Section 11-A of the LA Act applicable to the BDA Act.

54. In the said judgment, the principle of "legislation by incorporation" was discussed, holding that incorporation of an earlier Act into a later Act is a legislative device for the sake of convenience in order to avoid verbatim reproduction of the provisions of the earlier Act into the later Act. Once incorporation is made, the provisions of the incorporated statute become an integral part of the statute in which it is transferred and thereafter there is no need to refer to the statute from which incorporation is made and any subsequent amendment made in it has no effect on the incorporating statute. It was categorically observed that the BDA Act would be totally unaffected by repeal or amendment of the incorporated statute, since the borrowed provisions become an integral and independent part of the statute in which the provisions are incorporated.

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5. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

55. Applying the principle of *Bangalore Development Authority (supra)*[6], we find striking similarity between Section 36 of the BDA Act and Section 8 of the LDP Act inasmuch as the language of the two is concerned. In both the said Sections, the provisions of the LA Act have been applied from a certain stage, "so far as applicable".

56. Since, in the present case, the initial Notification under Section 4 and Declaration under Section 6, both of the LDP Act, were made in the year 1950 and possession was taken prior to 1955, when the LDP Act was amended, the unamended provisions of the LDP Act prevalent at the juncture of acquisition are to be looked into.

57. It would be apt to quote Section 8 of the LDP Act here:

> *"**8.** A declaration under section 6 shall be conclusive evidence that the land in respect of which the declaration is made is needed for a public purpose and, after making such declaration, the Provincial Government may acquire the land and thereupon the provisions of the Land Acquisition Act, 1894 (hereinafter in this section referred to as the said Act), shall, so far as may be, apply:*
>
> *Provided that–*
>
> *(a) if in any case, the Provincial Government so directs, the Collector may, at any time after a declaration is made under section 6, take possession, in accordance with the rules, of any beel, baor, tank or other watery area, or any other waste or arable land in respect of which the declaration is made and thereupon such land shall vest absolutely in the Crown free from all encumbrances;*
>
> *Explanation.—For the purpose of this clause the decision of the Provincial Government as to whether any land is or is not waste or arable land shall be final;*
>
> *(b) in determining the amount of compensation to be award for land acquired in pursuance of this ACt the market value referred to*

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6. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

in clause first of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of the land on the date of publication of the notification under sub-section (1) of section 4 for the notified area in which the land is included subject to the following condition, that is to say,--

If such market value exceeds by any amount the market value of the land on the 31st day of December, 1946, on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the said notification, the amount of such excess shall not be taken into consideration."

58. It is to be noted that, as per Section 8, the Provincial Government (subsequently "State Government" by amendment) may acquire the land and *thereupon* the provisions of the LA Act shall, *so far as may be*, apply. Hence, like the BDA Act, which was considered in *Bangalore Development Authority (supra)*[7], the provisions of the LA Act were only applied to a limited extent, "so far as may be applicable".

59. More importantly, the provisions of the LA Act, as incorporated by Section 8 of the LDP Act, were to apply (as per Section 8 itself) only after the land was acquired, which is evident from the language of Section 8, which uses the term "thereupon" after the expression "acquired the land". Hence, the provisions of the LA Act were not made applicable in their entirety but only the relevant provisions in respect of determination of compensation and passing of award, so far as they may apply, were incorporated from the LA Act into the LDP Act by application of the principle of "legislation by

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7. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

incorporation", as opposed to "legislation by referral". As rightly argued by the State/appellants, only the provisions relating to calculation of compensation and declaration of award were incorporated from the LA Act into the LDP Act, *after* the process of acquisition was over under the LDP Act.

60. Clause (b) of the proviso to the unamended Section 8 of the LDP Act, which ruled the roost at the juncture when the Notification under Section 4 and Declaration under Sections 6 and 7 of the LDP Act were published in the present case, stipulates the mode of determination of the amount, for which the yardstick would be the *first* Clause of Section 23(1) of the LA Act, which makes it abundantly clear that the incorporation of the LA Act was only to the limited extent of assessment of compensation and not the meat of the acquisition process itself.

61. Similarly, the amended sub-Section (2) of Section 8 of the LDP Act also specifically applied Section 23 (2) of the LA Act to the quantum of award.

62. There are two important reasons why Section 11-A of the LA Act, as amended in 1984, does not apply to acquisition proceedings under the LDP Act.

63. First, Section 8 of the LDP Act only incorporates the procedure in the LA Act relating to computation of the compensation payable and declaration of an award accordingly. This is evident from the provisions of the said Section, both pre and post amendment. Prior to its amendment, Section 8, proviso (b) categorically provided the benchmark for adjudicating market value for the purpose of calculating compensation to be the *first* Clause of Section 23 of the LA Act. Post-1955 Amendment, Section 8 (1) (b) of the LDP Act retained the same provisions but Section 8 (2) was added, which further clarified that the amount payable under Section 23 (2) of the LA Act shall also be payable to the land loser. Thus, the scheme of the LDP Act makes it abundantly clear that the same incorporates the LA Act provisions to the limited extent so far it relates to computation of compensation and declaration of the award, and not anything else in the LA Act.

64. On the other hand, Section 11-A, which was introduced in the LA Act in 1984, does not pertain to the modalities of calculation of compensation or grant of award directly but only specifies the period within an award is to be made. The language used therein is "an award made under Section 11", which obviously refers to Section 11 of the LA Act. Going by the principle of legislation by incorporation, it is the modality of calculation of compensation and declaration of award which has been body-lifted from the LA Act into the LDP Act. However, the bar imposed by Section 11-A does not directly pertain to such modality but only introduces a fetter to the time limit for passing an award under the LA Act itself. By necessary implication, it does not *per se* apply to awards passed in acquisition proceedings under a different statute than the LA Act (in the present case, the LDP Act). As per the principle laid down in

Bangalore Development Authority (supra)[8], thus, such subsequent amendment to the LA Act cannot be read into the provisions of the LDP Act. In fact, in the said judgment, the Hon'ble Supreme Court had also discussed its previous decisions on the self-same issue and approved of the same.

65. Secondly, Section 11-A of the LA Act applies only in respect of regular acquisition proceedings under the said Act, in which the acquisition proceeding is finally concluded upon the land being vested in the State by virtue of taking possession under Section 16 thereof. However, even in respect of emergency acquisition under Section 17 of the LA Act, vesting is complete upon possession being taken within the parameters of Sections 17 and 9 of the LA Act, upon prior notice being issued and payment of the stipulated 80% of estimated compensation and the value of the crops being made. In such cases, judicial opinion is settled that since the land has already vested in the State by taking possession, the process of acquisition is complete and there cannot be any lapse of the proceeding by operation of Section 11-A, even if the award is not declared within the statutory two years from the declaration under Section 6 of the LA Act. The proceeding is deemed to be kept alive only for the purpose of computing compensation and making an award, followed by payment of the balance compensation to the land losers. By application of the same logic, in any event, since vesting under Section 8 of the LDP Act is complete upon the

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8. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

possession being taken under clause (a) of the proviso thereto, there cannot be any further lapse of the proceeding, and the only thing which remains to be done is to calculate and award the compensation to the land loser. Once vested, the land cannot be divested under any provision within the four corners of either the LA Act or the LDP Act.

66. Hence, with utmost respect, the ratio laid down in *Bangalore Development Authority (supra)*[9], being more apt to the issue at hand, read in the factual context of the instant case, is to be applied as the binding precedent in the present case, as opposed to *Aziman Bibi (supra)*[10], also rendered by an earlier Division Bench of the Hon'ble Supreme Court. Before the Hon'ble Supreme Court, in *Aziman Bibi (supra)*[10], the general question which fell for consideration was whether the proceedings initiated under Sections 4 and 6 of the LDP Act would lapse by operation of Section 11-A of the LA Act, without the specific issue of the extent of applicability of the amendments to the LA Act in view of the principle of legislation by incorporation, being either argued or decided.

67. Moreover, the effect of Section 8, proviso (a) of the unamended LDP Act, corresponding to Section 8 (1) (a) of the amended LDP Act, under which, upon possession being taken, the lands vest absolutely in the State free from all encumbrances, was not at all considered in *Aziman Bibi (supra)*[10]. Thus, there is a cardinal

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9. ***Bangalore Development Authority and Another v. State of Karnataka and Others,* reported at *(2022) 14 SCC 173***

10. ***State of West Bengal and Others v. Aziman Bibi and Others, reported at (2016) 15 SCC 710***

difference between the adjudication in *Aziman Bibi's case* and the issue which has fallen for consideration in the present case. Conspicuously, the language used in Section 11-A of the LA Act is that the Collector shall make an award under Section 11 of the LA Act) within the period of two years from the date of the publication of "the declaration" (under Section 6 of the LA Act and not the LDP Act) and if no award is made within that period, the entire proceedings of the acquisition of land shall lapse. Thus, the reference in Section 11-A is specifically to declarations under Section 6 of the LA Act and not under Section 6 of the LDP Act.

68. Hence, the acquisition proceeding under Section 8 of the LDP Act in the present case could not have lapsed by operation of Section 11-A of the LA Act.

(iii) Whether the subsequent declarations and possessions vitiated the earlier possession taken in 1950

And

(iv) Whether the possession taken under Section 8 of the LDP Act was illegal

69. In view of the above two issues being inter-connected in several ways, both are taken up together for adjudication.

70. In the present case, admittedly a Notification bearing no. 5382 L.Dev. was issued under Section 4 of the LDP Act on May 19, 1950. On the self-same date, a declaration under Section 6 and 7 of the

LDP Act bearing no. 5384 L.Dev was also issued, being published in the Calcutta Gazette on June 1, 1950.

71. Section 6 of the LDP Act provides that when a development scheme is sanctioned under Section 5(2) of the said Act and the Provincial Government (read 'State Government') is satisfied that any land in the notified area for which such scheme has been sanctioned in needed for the purpose of executing such scheme, a declaration to the effect that such land is needed for public purpose shall, unless already made in pursuance of Section 7, be made by the Provincial (State) Government.

72. Under Section 7, in cases of urgency, if in respect of any notified area, the Provincial Government (read 'State Government') is satisfied that the preparation of a development scheme is likely to be delayed, the Provincial (State) Government may, at any time, make a declaration under Section 6 in respect of such notified area or any part thereof though no development scheme has either been prepared or sanctioned under Section 5.

73. Since the declaration in the present case was a composite one under Sections 6 and 7, invoking the urgency provisions of the LDP Act, the simultaneous publication of the Notification under Section 4 and the Declaration under Section 6 and 7 was lawful, as no intervening formulation of scheme under Section 5 was required by virtue of Section 7 and the LDP Act.

74. In consonance with the urgency provisions invoked in the present case, as evidenced by such declaration, possession was taken in the month of November, 1950 and a Possession Certificate was duly issued to Anukul, the predecessor-in-interest of the writ petitioners/respondents, on November 20, 1950, which is the admitted stand of both parties and is also evident from the materials on record.

75. Such possession was taken under Section 8, proviso (a) of the unamended LDP Act, as per which, on the direction of the Provincial (State) Government, the Collector may, at any time after the declaration is made under Section 6, take possession in accordance with the rules of any category of lands as described therein, upon which such land vests absolutely in the Crown (State), free from all encumbrances.

76. Hence, in the present case, the vesting occurred simultaneously with the possession being taken by the State, as evidenced by the Possession Certificate dated November 20, 1950. Once vested, there is no provision in the entire LDP Act, which is a self-contained code, of divesting such land by subsequent action of the State. The subsequent post-vesting acts of the State, by publication of subsequent Notifications purportedly under the provisions of Sections 4 and 6 of the LDP Act, and issuance of subsequent Possession Certificates, could not invalidate a valid vesting, which had already taken place in the year 1950 itself. Once vested, even the State does not have the power to divest the subject land.

77. Section 8 of the LDP Act applies the provisions of the LA Act, *mutatis mutandis,* only after such acquisition process is complete, thereby limiting the same to the assessment of compensation alone, which is further evidenced by Proviso (b) of Section 8 of the LDP Act, which stipulates only the mode of determining the amount of compensation in terms of the *first* Clause of Section 23 (1) of the LA Act, further clarifying the limited incorporation of the LA Act with regard to the provisions governing the assessment of compensation alone.

78. Unlike Section 17 of the LA Act, which also provides for emergency acquisition like Section 7 and 8 of the LDP Act, there is no mandatory provision in the LDP Act for prior payment of 80% of estimated compensation to the land loser before taking possession. Thus, the argument of the writ petitioners/respondents, to the effect that belated payment of 80% compensation vitiated the possession, has no legal basis to stand upon. Since the acquisition was under the LDP Act and not the LA Act, the payment of compensation to the extent of 80% was not even required under the law and, as such, not a mandatory prerequisite of vesting.

79. The other ground taken by the writ petitioners/respondents regarding the vesting being vitiated is that there was no specification of the nature or category of land in the Possession Certificate. Nothing in the LDP Act or the governing Rules mandates such specification at all. The reliance of the respondents on *Delhi Airtech (supra)*[11] is entirely misplaced since, in the said case, the Hon'ble Supreme Court was considering an acquisition under

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11. ***Delhi Airtech Services Pvt. Ltd. and Another v. State of U.P. and Another, reported at 2022 SCC OnLine SC 1408***

Section 17 of the LA Act and not under Section 8 of the LDP Act. In the specific context of Section 17 (3-A) of the LA Act, which mandates prior payment of 80% of estimated compensation before taking possession, it was observed by the Hon'ble Supreme Court that since the said mandatory prerequisite of the statute was not complied with, the acquisition would lose its character as being under Section 17 and would be relegated to an ordinary acquisition under the provisions of the LA Act, thus requiring an award to be passed within two years as stipulated in Section 11-A of the said Act. However, by necessary implication, the converse was also affirmed by the Supreme Court by saying so, since if the possession was taken upon compliance with the mandates of Section 17 (3-A), the vesting in the State would be complete and the proceeding would not lapse under Section 11-A of the LA Act.

80. Like Section 8 of the LDP Act, Section 17 (1) of the LA Act also contemplates, upon emergency possession being taken for a public purpose, absolute vesting of the plots of land concerned in the Government, free from all encumbrances. Thus, even in *Delhi Airtech (supra)*[12], the Hon'ble Supreme Court impliedly gave a sanction to the proposition that Section 11-A would not be applicable in the event valid possession was taken under Section 17 of the LA Act. By the same logic, since Section 8, Proviso (a) of the LDP Act does not contemplate any prior payment, the possession

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12. ***Delhi Airtech Services Pvt. Ltd. and Another v. State of U.P. and Another, reported at 2022 SCC OnLine SC 1408*** taken could not be vitiated due to delayed payment of 80% of the estimated compensation.

81. Section 8 (b) includes within its periphery all sorts of land, including "any other waste or arable land". There is no dispute in the present case as to the plots of land concerned being cultivable or arable land. Thus, going by the expression "any other arable land", the non-specification of the nature of land in the Possession Certificate itself, which is not a statutory requirement, could not have vitiated the vesting itself. Apart from there being no such requirement in law, presumption of correctness of official acts as contemplated in Section 114 of the Evidence Act, which was applicable at the relevant juncture, as well as the Bharatiya Sakshaya Adhiniyam, is applicable to the possession taken by the State Government in respect of the subject lands. In the absence of any cogent rebuttal to the fact that the lands vested in the State by taking of possession, the argument of the respondents that the vesting was vitiated is not tenable in the eye of law.

82. Even by their own conduct, in repeatedly claiming balance compensation, both by the writ petitioners and their predecessor-in-interest, such land losers not only reaffirmed but relied on the possession having been taken under Section 8, Proviso (a) of the LDP Act as well as the payment of 80% estimated compensation. In fact, the very basis of the writ petition from which the present appeal arises is a claim of balance compensation over and above what was paid to the writ petitioners/their predecessor. Hence, the non-specification of the nature and character of the land in the Possession Certificate is a non-issue and entirely redundant for the present purpose and could not have vitiated the act of possession by any stretch of imagination. Thus, the above two issues are decided in favour of the appellant.

(v) Whether the writ petitioners/respondents and/or their predecessor-in-interest waived their right to challenge the acquisition process

83. The respondents have relied on several judgments to argue that the challenge to the land acquisition process was not waived by them. However, such reliance is largely misplaced. In *Ram Chand (supra)*[13], the acquisition was under the LA Act, in which context it was held that the writ petitioner therein, because of the delay and inaction on the part of the respondent-authorities, were in a predicament, in which context it was held that the delay on the part of the respondent-authorities mitigated the delay in preferring the claim of compensation. In the present case, the liability of the state-appellant, for payment of balance compensation upon calculation of the same and passing an award, cannot be denied. The argument of the State is not that the delay in preferring the writ petition defeated equity, but that, irrespective of the delay, the right to challenge the acquisition process itself was waived by the predecessor-in-interest

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13. ***Ram Chand and Others v. Union of India and Others*, reported at *(1994) 1 SCC 44*** of the writ petitioner/respondents, by not challenging the proceeding during his lifetime, since he was admittedly alive up to the year 1960.

84. In *Tukaram Kana Joshi (supra)*[14]*,* the Hon'ble Supreme Court reiterated the same proposition by shifting the focus from the delay on the part of the land losers in making claims of compensation to that of the inaction on the part of the respondent-authorities in depriving the land losers of their legitimate dues for about half a century. There cannot be any quarrel with such proposition. However, delay in filing the writ petition itself is not a germane issue here.

85. In *Vidya Devi (Supra)*[15], as well as *Sukh Dutt Ratra (Supra)*[16]*,* the latter having relied on the former, the case was not under any acquisition Act, but one of forcible expropriation of private property [of an illiterate widow from a rural area in *Vidya Devi (Supra)*[15]]. It was held that in such cases, the State, being a welfare state, cannot take a plea of adverse possession and has to compensate the landowner. Such proposition has nothing to do with the present case, since the present acquisition was a valid one, undertaken in due process of law, within the contemplation of the governing statute, that is, the LPD Act.

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14. ***Tukaram Kana Joshi and Others Through Power-of-Attorney Holder v. Maharashtra Industrial Development Corporation and Others*****, reported at *****(2013) 1 SCC 353***

15. ***Vidya Devi v. State of Himachal Pradesh and Others, reported at (2020) 2 SCC 569***

16. ***Sukh Dutt Ratra and Another v. State of Himachal Pradesh and Others, reported at (2022) 7 SCC 508***

86. The co-ordinate Bench, in *Pranab Kumar Mukherjee*'s case[17] , also reiterated the above proposition and held that a person's claim to compensation cannot be defeated by the State on the ground of delay, which proposition has no direct applicability to the present case. The argument of delay is a non-issue in the present case. The issue involved is whether the writ petitioners and their predecessor-in-interest waived their right to challenge the acquisition proceeding itself on the ground that it has lapsed or otherwise.

87. Admittedly, Anukul, the original land loser and the predecessor-in-interest of the writ petitioners/respondents, wrote a letter on February 12, 1957 to the authorities asking when he would get the balance payment, thereby not disputing the validity of the acquisition itself; rather, relying on the same and claiming balance compensation on the basis of such acquisition, in the process also virtually admitting the *ad hoc* payment of 80% of estimated compensation. The payment of 80% compensation on August 21, 1956 is also substantiated by the documents available before us. Such payment was in terms of Government Orders and not by virtue of any statutory right of the land loser, the orders being GO No. 2414-Rehab dated March 13, 1954 and 3508-Rehab dated February 9, 1956. Not stopping there, admittedly, Anukul had written continuously, followed by some of his successors as well, seeking payment of the balance compensation. After having done so, by relying on the valid vesting of the property by a process of

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17. ***The State of West Bengal & Ors. v. Pranab Kumar Mukherjee [MAT 71 of 2018]*** acquisition under the LDP Act, the writ petitioner/respondents cannot resile from such position and do a *volte face* by challenging the acquisition process itself, either before the writ court or in the present appeal.

88. Thus, it is hereby held that the writ petitioners/respondents and their predecessor-in-interest, by their conduct, waived their right to challenge the acquisition process itself.

89. Moreover, in any event, once vesting has taken place by operation of Clause (b) of the proviso to Section 8 of the LDP Act, (pre-amendment), upon possession being taken in terms of the said provision, preceded by Notification under Section 4 and Declaration under Sections 6 and 7 of the said Act, there need not and cannot even be any subsequent waiver as such and even the State Government, by its own executive action, cannot divest the plots which have already vested in it.

90. As recorded by the learned Single Judge in paragraph no. 13 of the impugned order, it is not in dispute that the lands of the petitioners have been utilized for the purpose for which the declaration under Section 6 of the LDP Act was published.

91. Thus, the vesting, which has culminated in utilization of the concerned plots for the public purpose for which it was vested, cannot now be reversed.

CONCLUSION

92. Thus, from the aforesaid discussions, what emanates is that the finding of the learned Single Judge, that the acquisition proceeding under the LDP Act had lapsed, does not have any legal footing and as such is bad in law. The consequential direction on the State to initiate a fresh acquisition proceeding is, accordingly, also vitiated. Since the acquisition process culminated in the vesting of the land, by virtue of taking of possession of the same as long back as in the year 1950 and issuance of Possession Certificate, and payment of part compensation as well as utilization of the plots for the public purpose for which it was acquired in the first place, there is no scope of a fresh acquisition proceeding being directed to be initiated *de novo.*

93. The only remedy which the writ petitioners/respondents are entitled to is the passing of an award and payment of the balance compensation, upon deduction of the amount already paid to the predecessor-in-interest of the writ petitioners/respondents, in favour of them.

94. The only question which remains is, in view of the repeal of the LA Act by the 2013 Act, what would be the modality to be followed in computing the amount of compensation payable to the writ petitioners/respondents. The answer lies in our decision on the first issue hereinabove.

95. Undoubtedly, the LA Act was repealed by dint of Section 114(1) of the 2013 Act on and from the date of coming into force of the 2013

Act, that is, January 1, 2014. However, as held above, the repeal of the LA Act does not affect the LDP Act at all, since it is only certain provisions of the LA Act which were incorporated in the LDP Act, upon which those provisions became a part of the LDP Act. It is a clear instance of 'legislation by incorporation' rather than 'legislation by referral'.

96. Thus, subsequent repeal of the Act from which such incorporation was done, that is, the LA Act, does not affect the LDP Act at all. Such conclusion is inevitable by virtue of the ratio laid down in *Bangalore Development Authority (supra)*[18]. The LDP Act was never repealed by the 2013 Act. As per Section 8, proviso (b) of the LDP Act, which provision remained substantially unaltered even after amendment of the LDP Act by introduction of Section 8 (1), proviso (b), the standard to be followed in determining the amount of compensation is the market value referred to in the *first* Clause of Section 23(1) of the LA Act. The date of assessment of such market value would be the date of the Notification under Section 4 of the LDP Act, which is May 19, 1950 in the present case, and is also the date of the Declaration under Sections 6 and 7 of the LDP Act. Such modality would not be in terms of the LA Act independently, since the same has been repealed by the 2013 Act, but by virtue of Section 8(1), proviso (b) of the LDP Act itself, which incorporates the relevant provisions of the LA Act.

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18. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

97. For such purpose, we have to look at the last-amended Section 8 of the LDP Act since, although the acquisition took place under the unamended Section 8 of the LDP Act, by the time when the award will be declared, the said Act has been amended in the years 1955 and 1978 and the new Section 8 (2) has also been incorporated. The said sub-section provides that apart from the compensation payable, the amount "referred to in" Section 23 (2) of the LA Act would also be included in the award.

98. Sub-Section (2) of Section 8 of the LDP Act was introduced in its present form in the year 1978, on which date the additional amount under Section 23 (2) of the LA Act was "fifteen per centum" of the market value. Although such rate was subsequently amended and increased to "thirty per centum" in the year 1984 in the original Section 23 (2) of the LA Act itself, going by the principle laid down in *Bangalore Development Authority (supra)*[19], such increase cannot be read into the LDP Act, since the position of Section 23 (2) of the LA Act as on the date of the last amendment in the LDP Act, that is, the year 1978, is to be seen. Section 23 (2) of the LA Act, as it stood on the date of such amendment to the LDP Act, must be deemed to have been immediately incorporated into the LDP Act and became a part of the said incorporating statute. Subsequent amendments to the principal Act cannot be read into the incorporating statute, on the same principle by which the subsequent repeal of the principal Act cannot also have any effect on the incorporating statute.

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19. ***Bangalore Development Authority and Another v. State of Karnataka and Others*, reported at *(2022) 14 SCC 173***

99. By the same logic, sub-Section (1A) of Section 23 of the LA Act, which was also inserted by the subsequent amendment to the said Act of 1984, entitling the land losers to get interest at the rate of 12% per annum on the market value from the date of publication of the notification till the date of the award, cannot also be read into Section 8 of the LDP Act, in view of the LDP Act having not specifically incorporated the same, nor having the said amendment.

100. However, this Court is also a court of equity and, in appropriate cases, has the power to award interest independently of such provision. While holding so, it also has to be kept in mind that since the provisions of sub-Section (1A) of Section 23 of the LA Act is not applicable, the fetter imposed therein as to the rate of interest and period for which such interest can be awarded is also not attracted to the present case. There is no restriction in grant of interest provided in the LDP Act as well.

101. Thus, keeping in view the fact that the State sat tight over the matter of declaring award for grant of compensation to the writ petitioners/respondents for an inordinately long period, for which the respondents are not responsible in any manner, we hereby decide to grant interest to the respondents at the rate of 6% per annum on the market value from the month immediately succeeding the date of taking over possession, that is, from December, 1950 till the date of passing of the award.

102. Before parting with the matter, we also take note of the argument of the writ petitioners/respondents that for the purpose of assessment of compensation, the date of notification should be notionally shifted forward in order to assess compensation at current rates. For such purpose, the respondents have relied on *Bernard Francis Joseph Vaz (supra)*[20].

103. Although we would otherwise be able to satisfy our conscience if we could apply such principle to ensure that the best rates of compensation are paid to the land losers, keeping in view the long delay in calculation of compensation for the land losers, unfortunately, law does not permit us to do so. Our hands are tied by the provisions of Section 8 of the LDP Act, which incorporated the provision of Section 23(1) of the LA Act. In *Bernard Francis Joseph Vaz (supra),* the Hon'ble Supreme Court categorically observed, particularly in paragraph nos. 54 and 58 thereof, that it was resorting to Article 142 of the Constitution of India, which permits the Hon'ble Supreme Court, and that Court alone, to pass any decree or order to do compete justice between the parties, which power is not vested in the High Courts. Hence, we cannot resort to the luxury of satisfying our own conscience at the expense of contravening the clear legislative mandate. Since Clause (b) of Section 8 of the LDP Act [Section 8(1) after amendment] specifically applies the *first* Clause of Section 23(1) of the LA Act for the purpose of calculation of market value, which fixes the date of market value at the date of publication of the notification, we cannot deviate from

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20. ***Bernard Francis Joseph Vaz and Others v. Government of Karnataka and Others,* reported at *(2025) 7 SCC 580*** such position of law and direct the date of notification to be notionally shifted to some later date.

104. In view of the above observations, the order impugned before us cannot be sustained. An exercise for computation of the amount payable in terms of the above directions and declaration of award has to be taken up by the concerned Collector. For such purpose, in the event the Collector under the LA Act has been rendered defunct due to repeal of the said Act by the 2013 Act, the Collector designated under the 2013 Act may act as Collector to undertake such exercise for the present purpose, since the definition of "Collector" is the same in both the statutes.

105. Accordingly, MAT No. 137 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated August 23, 2024 passed in WP No. 17016 (W) of 2015 and allowing the writ petition partially, by passing the following directions:

(i) The Collector under the LA Act (if already rendered defunct by dint of repeal of the LA Act, the Collector under the 2013 Act shall act as Collector under the LA Act for the limited purpose of carrying out this order) shall make an enquiry in terms of Section 11 of the LA Act with regard to the acquired plots of land of the writ petitioners/present respondents and, for such purpose, shall give adequate opportunity of hearing to all persons interested, including the writ petitioners/present respondents;

(ii) Thereafter, the Collector shall declare an award in terms of Sections 11 and 23 of the LA Act, read with proviso (b) of sub-Section (1) and sub-Section (2) of Section 8 of the LDP Act, upon determining compensation payable by applying the yardsticks as laid down therein.

(iii) For such purpose, the market value referred to in clause *first* of Section 23 (1) of the LA Act shall be deemed to be the market value of the land on the date of publication of the notification under Section 4 (1) of the LDP Act for the notified area in which the subject plots of land are included, that is, May 19, 1950;

(iv) If such market value exceeds by any amount the market value of the land on December 31, 1946, on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the said notification, the amount of such excess shall not be taken into consideration;

(v) When the amount of compensation has been so determined by taking into account all the components as provided in Section 23 (1) of the LA Act, the Collector shall make an award in accordance with the principles set out in Section 11 of the LA Act;

(vi) In addition to the market value of the land as enumerated above, the Collector shall award a sum of 15% on the market value so determined, in consideration of the compulsory nature of the acquisition.

(vii) The entire exercise, as directed above, shall be concluded at the earliest, preferably by April 30, 2026.

(viii) The total amount of compensation so determined, including the amount stipulated in Clause (vi) hereinabove, shall be disbursed in favour of the writ petitioners/present respondents, after deducting the 80% of estimated compensation already paid to Anukul Chandra Ghosh, the predecessor-in-interest of the writ petitioners/respondents, on August 21, 1956, within a month of declaration of the award.

106. CAN 2 of 2025 is consequentially disposed of as well.

107. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)