



\$-25

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 05th August, 2025

+ **W.P.(C) 4489/2024**
KAMINI MALHOTRA

..... Petitioner

Through: Mr. Matrugupta Mishra and Mr.
Nipun Dave, Advocates.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Manika Tripathy, SC with Mr.
Ashutosh Kaushik, Panel
Advocate for DDA
Ms. Ruchika Rathi and Mr. Aatish
Sharma, Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The land in question came to be acquired pursuant to the Land Acquisition Act 1894, in village *Prehladpur Bangar*, Delhi for the public purpose namely Rohini Residential Scheme under Planned Development Scheme of Delhi.

2. The petitioner has approached this Court with a prayer seeking



declaration that since neither the compensation is paid nor the possession is taken, lapsing of acquisition proceedings be declared under subsection 2 of Section 24 of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (the ‘*Act of 2013*’).

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases—

..... (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.”

3. It is the petitioner’s case that he is entitled for such relief pertaining to lapsing of acquisition in regard to 1 *Bigha* land out of



Khasra No.49/8 in the revenue estate of village of Prehladpur Bangar, Delhi.

4. The counsel for the petitioner to substantiate his claim, that the possession was not taken has relied on the judgment of Apex Court in the matter of ***Banda Development Authority, Banda Vs. Moti Lal Agarwal And Ors. (2011) 5 SCC 394***, particularly *paragraph 37 sub clause (iv)*, so as to assess that possession of the land was not taken in a lawful manner. For ease of reference, *paragraph 37* is extracted as under:

“37. The principles which can be culled out from the abovenoted judgments are:

..... (iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3-A) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the court may reasonably presume that possession of the acquired land has been taken.”

5. According to him, the physical possession of large tract of land, in case, if acquired, is not practicable and in such an eventuality, the symbolic possession, even if is permissible, same has to be by preparing



appropriate documents in the presence of independent witnesses and getting their signatures on such documents.

6. According to him, reliance placed by respondent no.3/Government of NCT of Delhi (**GNCTD**) on the possession receipt speaks of signatures of the officials of the respondent/public authority and not that of independent witnesses. As such, this Court must infer that possession, as claimed to have been taken by the respondent, is *de hors* the mandate provided in the judgment of ***Banda Development Authority, Banda (Supra)***.

7. He further claims that, in such an eventuality, even the failure to pay compensation, coupled with the land is required to be released from the clutches of the acquisition pursuant to the mandate provided under subsection 2 of Section 24 of the Act of 2013.

8. As against above, drawing support from the Apex Court order in the matter of ***Delhi Development Authority Vs. Monika Shukla and Ors.*** in ***Civil Appeal no. 2534/2023*** passed on ***10th April 2023***, it is claimed by the respondent authority that, in case, of the acquisition of large tract of land for the development of Rohini Residential Scheme, the Apex Court has passed an order of deemed possession to have been taken by Delhi Development Authority (**‘DDA’**). Support has been drawn from observations in *Paragraph 4* of the said order which reads as follows:

“4. From the impugned judgment and order passed by the High Court, it appears that even the High Court has also noted that pursuant to the orders passed by this Court dated 18th October,



2019 and 10th March, 2015 in SLP (C) Nos.16385-16388/2012, the DDA will be deemed to be in possession of the land in question. Thereafter, it will not be open for any of the original writ petitioners to claim any possession. Therefore, once the DDA was held to be in deemed possession of the land in question there shall not be any lapse of acquisition, there is no question of payment of any compensation to the original land owners under the 2013 Act.”

9. As such, it is claimed that possession already stood vested with the respondent no.2/DDA and as far as the compensation is concerned, in case, if the petitioner approaches the respondent no.4/Land Acquisition Collector (**‘LAC’**), the compensation shall be paid in accordance with the law, provided there has been compliance of necessary legal formalities.

10. In support of the aforesaid claim, it is urged that the petitioner, in case complies with the requirement as contemplated under *paragraph 5* of the order of Apex Court in the matter of ***Delhi Development Authority Vs. Monika Shukla and Ors (Supra)***, the compensation can be released in favour of the petitioner. For ease of reference *paragraph 5* is extracted as under:

“5.Under the circumstances, the impugned judgment and order passed by the High Court directing to pay the compensation under the 2013 Act is unsustainable. At this stage, the learned counsel appearing on behalf of respondent No.1 and other respondents prayed that in that case, the concerned writ petitioners be paid the



compensation even under the Land Acquisition Act, 1894 (for short, 'the 1894 Act') as per the Award declared by the Land Acquisition Collector. Therefore, it is directed that subject to each of the original writ petitioners satisfying the concerned Land Acquisition Collector of their status and entitlement to receive compensation by producing the chain of the property title/authorisation, the compensation under the 1894 Act be paid to them in accordance with law and as per its own merit. However, the impugned judgment and order passed by the High Court directing to pay compensation under the 2013 Act is unsustainable."

11. We have considered the rival claims.

12. It is apparent from the record that after the award came to be passed and after having gone through the possession receipt which has been placed on record with the counter-affidavit by respondent no. 3, it can be inferred that possession of the land was already taken. Even otherwise, the fact remains that in the matter of ***Delhi Development Authority Vs. Monika Shukla and Ors (Supra)***, there was an order of deemed possession passed by the Apex Court in the matter of the land being acquired for the purpose of Rohini Residential Scheme. Admittedly, land of the petitioner was acquired for execution of the above scheme.

13. In such an eventuality, there is no scope to infer that the possession remains with the petitioner in spite of there being revenue record in her favour.



14. The test laid down by the Apex Court in the matter of ***Indore Development Authority v. Manoharlal, (2020) 8 SCC 129***, if applied to the facts of the present case, would be that once the possession stood vested with the acquiring body, there is no scope for the petitioner to claim that the provisions of subsection 2 of Section 24 of the Act of 2013, shall be attracted and there must be a declaration about lapsing of acquisition. The petitioner, in our opinion, has failed to satisfy the very test of establishing that possession continued with him and as a sequel the provisions of subsection 2 of Section 24 of the Act of 2013 shall be attracted.

15. Apart from above, as regard the payment of compensation is concerned, needless to clarify that, in case, if the petitioner approaches and report compliance in terms of *paragraph 5* of the judgment of ***Delhi Development Authority Vs. Monika Shukla and Ors (supra)***. The respondents shall be duty bound to release the compensation in accordance with the statutory provisions including that of the interest and solatium accrued thereon.

16. In that view of the matter, the petition stands partly allowed.

17. We hereby direct respondent No.4/LAC to release the compensation in accordance with law in favour of the petitioner, provided the petitioner reports of compliance as per observations made in *paragraph 5* of the judgment delivered by the Apex Court in the matter of ***Delhi Development Authority Vs. Monika Shukla and Ors (Supra)***.

18. As regards claim put forth by the petitioner that the acquisition has



2025:DHC:6660-DB



to be declared lapsed, it is liable to be rejected in view of order of deemed possession passed by the Apex Court.

19. Order be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

AUGUST 5, 2025/sky/zb