**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**
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Date of Decision: 07.04.2026

1. RFA-3952-2017 (O&M)

Commissioner, Municipal Corporation, Jalandhar
…….Appellant
Versus
Pritpal Singh and others
...…Respondents

2. RFA-3798-2017 (O&M)

Pritpal Singh and anr.
…….Appellants
Versus
State of Punjab and others
...…Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Akshay Bhan, Sr. Advocate with
Mr. Aadit Garg, Advocate
for the appellant MC, Jalandhar.

Mr. Kulbir Singh Minhas, Advocate and
Mr. Hargun S. Sethi, Advocate
for the respondents/ landowners.

Mr. Gunjan Mehta, Addl. A.G., Punjab.

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<u>HARKESH MANUJA, J. (ORAL)</u>

Vide this common order, the abovementioned two Regular First Appeals, are being decided as both the appeals have arisen out of common acquisition/Award involving identical facts and question of law. For the sake of brevity, facts are being taken from

<u>RFA-3952-2017</u>.

2. By way of present appeal(s), challenge has been laid to an award dated 02.05.2017 passed by the learned Additional District Judge, Jalandhar (hereinafter referred to as '***the Authority***') whereby the reference petition preferred at the instance of respondents/ landowners in terms of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation Act, 2013 (for short '***the 2013 Act'***) read with Section 18 of Land Acquisition Act, 1894 (for short '***the 1894 Act***'), was partly accepted.

3. Briefly stating, the respondents owned 32 kanals 7 marlas of land situated in the revenue estate of village Dhilwan, forming part of Municipal Limits, Jalandhar. The aforesaid land was acquired in terms of notification dated 09.11.1992 issued under Section 4 read with Section 17 of the 1894 Act followed by notification under Section 6 thereof; issued on 28.12.1992 for the public purpose, namely, "*for providing disposal work of the sullage water at Jalandhar City".* The respondents/landowners being aggrieved of the commencement of acquisition proceedings approached this Court having preferred CWP No.1840/1993, titled as ***Talwinder Singh and others Vs. State of Punjab and ors.***, wherein this Court vide order dated 11.02.1993 granted stay of dispossession in their favour. Later, an application was filed on behalf of the appellant seeking modification of the interim order dated 11.02.1993, on the ground that possession of the subject land had already been taken over on 05.02.1993 which was

supported by virtue of a *rapat* entry dated 05.02.1993 made by the revenue officials. Thereupon, the Writ Court vide order dated 18.02.1993 modified the interim order dated 11.02.1993 and directed that *status quo* with regard to possession of the land in question be maintained by the parties. The aforesaid Writ Petition was later disposed of by this Court vide order dated 10.12.2015. The said order being relevant to the controversy in hand is extracted hereunder:-

> *"The challenge in the present two writ petitions bearing CWP Nos.1840 and 4024 of 1993 is to the acquisition of land measuring 32 kanals 7 marlas for a public purpose of providing disposal work of sullage water at Jalandhar City.*
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> *The notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 04.11.1992 and notification under Sections 6 of the Act was issued 28.12.1992. The writ petition against the said notifications came up for hearing before this Court which was admitted for final hearing wherein there was an order of stay of dispossession.*
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> *In the meantime, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act') came into force on 01.01.2014. As per Section 24(1) of 2013 Act, where the award has not been announced prior to commencement of 2013 Act, the compensation has to be awarded under the 2013 Act. Admittedly, the award has not been announced in pursuance of the notifications so published under Section 4 and 6 of the Act. Consequently, in terms of*

Section 24(1) of 2013 Act, the petitioners are entitled to compensation under 2013 Act.

Mr. Ashok Kumar Bazaz, Advocate, representing the respondent-Municipal Corporation, Jalandhar, on the instructions of Mr. Lakhvinder Singh, Superintending Engineer, Municipal Corporation, states that the Municipal Corporation is ready and willing to pay compensation in terms of 2013 Act.

In view of the legal position as accepted by Mr. Bazaz, the writ petitions are disposed of with direction to the respondents to pay compensation to the petitioners in terms of 2013 Act within 6 months from today and to complete the acquisition proceedings in accordance with law."

4. In view thereof, the concerned District Revenue Officer-cum-Land Acquisition Officer, Jalandhar passed an award dated 09.06.2016 by taking the date of determination of market value to be 09.11.1992 i.e. the date of notification issued under Section 4 of the Act in the case(s) in hand. In this context, the relevant portion from the Award dated 09.06.2016 passed by the LAC is extracted hereunder:-

"The land is situated in the revenue estate Village Dhilwan at the link road leading from Jalandhar Hoshiarpur road to Village Dhiulwan. The chant of sale transaction executed three years prior to the date of publication of notification under Section 4 i.e. 9.11.1989 to 08.11.1992 has been got prepared from the revenue Patwari."

5. Being aggrieved, the respondents/ landowners sought reference under Section 64 of the 2013 Act read with Section 18 of the 1894 Act before the Authority, which was contested by the appellant. Subsequently, the learned Authority vide its award dated 02.05.2017 re-assessed and enhanced the market value in favour of respondents/ landowners @ Rs.42,480/- per marla besides granting them all statutory benefits in terms of Sections 26(2), 30(1) and 30(3) of the 2013 Act.

6. Challenging the aforesaid award passed by the learned Authority, learned Senior counsel appearing on behalf of the appellant submits that the learned Authority erred having re-assessed the market value of the acquired land by adopting 01.01.2014, the date on which the 2013 Act came into force as the relevant date of assessment. Learned counsel submits that once the acquisition in the case(s) in hand commenced under the provisions of the 1894 Act, the relevant date for determination of market value was the date of issuance of notification under Section 4 thereof. Thus, the re-assessment, if any, was required to be made by the learned Reference Court while taking into account the relevant date to be 09.11.1992 instead of 01.01.2014. In support of his aforesaid contention, learned counsel relied upon the judgment passed by the Hon'ble Supreme Court in case of ***Haryana State Industrial and Infrastructure Development Corporation Ltd. and ors. Vs. Mr.***

Deepak Aggarwal and ors., arising out of SLP (C) Nos.16631-16632-2018, decided on 28.07.2022. Paragraphs No.30, 31 and 32, as relied upon by learned counsel for the appellant, are extracted hereunder:-

> *"30. In the decision in **Shiv Kumar and Anr. Vs. Union of India and Ors.** [(2019)] 10 SCC 229] a three-Judge Bench of this Court held that a purchaser of land in respect of which notification under Section 4(1) of the L.A. Act issued and published (after the issuance of Section 4 notification under the L.A. Act) did not acquire any right in the land concerned and such sale is ab initio void and such a person would have no right to claim that land under the policy of law. Section 23 of the L.A. Act deals with matters to be considered in determining compensation. Going by the said provision, the market value of the land in question was to be decided taking the market value at the date of the publication of the notification under Section 4. Going by the settled position, a vital defect in the Section 4(1) notification under the L.A. Act cannot be cured by issuing and publishing a declaration under Section 6 of the L.A. Act and in such circumstances, it would entail annulment of both the notifications and also the acquisition proceedings. All the aforesaid aspects would reveal that issuance and publication of a valid Section 4(1) Notification, was the foundation for acquisition of land in any locality under the L.A. Act. All the above reasons will fortify our conclusion and justify the*

rejection of the contention that Section 4(1) notification is nothing but a mere formality and got no real relevance or importance in the process of land acquisition under the L.A. Act.

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

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

2013 Act relating to the determination of compensation alone would apply to such acquisition proceedings. In other words, it would mean that in such circumstances the land acquisition proceedings should continue, but all the provisions relating to the determination of compensation under the 2013 Act alone will be applicable to such proceedings, meaning thereby, the 2013 Act would come into play only at that stage. There can be no doubt with respect to the position that between the initiation of land acquisition proceedings by issuance and publication of notice under Section 4(1) of the L.A. Act and the stage at which compensation for the acquisition calls for determination, there are various procedures to be followed to make the acquisition in accordance with the law. The question is when Section 24(1) of the 2013 Act makes it clear with necessary implication that all provisions of the 2013 Act relating to the determination of compensation alone would be applicable to such proceedings initiated under the L.A. Act but, not culminated in an award, how the procedures are to be regulated during the intervening period till the proceedings reach the stage of determination of compensation. There cannot be any uncertainty on that aspect. The procedures to be undertaken and the manner in which they are to be regulated cannot remain uncertain. They are conducted either in the manner provided under the L.A. Act or in the manner provided under the 2013 Act. But then, in view of Section 24(1)(a), the provisions *relating to the determination of compensation alone can be applied to such proceedings or in other words, there is only a restricted application of the provisions of the 2013 Act in relation to such proceedings. The inevitable conclusion can only be that what is applicable to the various procedures to be undertaken during the period up to the stage of determination of compensation are those prescribed under the L.A. Act. We have no doubt that without such a construction, the provisions under Section 24(1)(a) would not work out, in view of the restrictive application of the 2013 Act. It is in this context that the decision in Ambica Quarry Works' case (supra) assumes relevance. Any construction of the said provision without taking into the legislative intention, referred hereinbefore would defeat the legislative intention as also the very objects of the 2013 Act. Certainly, it would not be in public interest to allow such proceedings to lapse or allow the authorities to follow the procedures during such period according to their sweet will. A uniform procedure has to be followed in respect of such proceedings. The acquisitions initiated for public purposes should go on in a fair and transparent manner with a view to achieve the intent and purport of the 2013 Act and at the same time, the persons affected shall have definite idea about the manner in which procedures would be conducted. The Party 'B' would not be justified in describing such situations of necessity and the consequential application of provisions* *which are actually saved on account of the construction of Section 24 as an attempt to bring the words expressly employed in Section 24(1)(b) and absent in Section 24(1)(a), by indirect method to Section 24(1)(a) of the 2013 Act. The aforesaid conclusions and findings would make the contentions of Party 'B' that Section 4(1) notification issued prior to 01.01.2014 could not survive after 01.01.2014 and also that Section 6 notification under the L.A. Act could not be issued after 01.01.2014, unsustainable. In fact, all such procedures and formalities shall be continued till the determination of compensation by applying all the provisions for determination of compensation, under the 2013 Act. A contra-construction, in view of the restrictive application of the provisions to such proceedings during its continuance, would make the provisions under Section 24(1)(a) of the 2013 Act unworkable."*

No other point has been addressed by the learned Senior counsel for the appellant.

7. On the other hand, learned counsel appearing on behalf of the respondents/landowners submits that the issue of fixation of date with respect to determination of market value under similar facts and circumstances has already been adjudged by this Court vide decision dated 05.10.2023 passed in CWP No. 28799/2019, titled as ***Krishan Singh and others Vs. State of Punjab and others***.

7.1 Learned counsel further contends that in the given facts and circumstances, once the possession of the acquired land was taken over by the appellant-beneficiary on 05.02.1993, the respondents/ landowners were entitled to award of interest in terms of Section 72 of the 2013 Act from the said date.

No other point has been pressed by learned counsel representing the respondents/ landowners.

8. I have heard learned counsel for the parties and gone through the paper-book. I do not find substance in the submissions made on behalf of the appellant.

9. In the given facts and circumstances, notification under Section 4 read with Section 17 of the 1894 Act was issued on 09.11.1992 followed by notification dated 28.12.1992 issued under Section 6 thereof. On a challenge made on behalf of the respondents/ landowners to the aforestated notifications, this Court vide order dated 11.02.1993 passed in CWP No.1840-1993 granted interim stay in favour of the respondents/ landowners which was later modified vide order dated 18.02.1993 directing the parties to maintain *status quo*. Later, the said Writ Petition was disposed of by this Court vide order dated 10.12.2015 whereby the appellant was directed to pay compensation to the respondents/ landowners in accordance with the provisions of the 2013 Act. In terms thereof, an award dated 09.06.2016 was passed by the concerned LAC by making assessment of the market value of the acquired land as on 09.11.1992 i.e. date of notification under Section 4 of the 1894 Act in

case(s) in hand.

9.1. However, in the facts and circumstances, since the acquisition proceedings under the 1894 Act though commenced vide issuance of notifications under Sections 4 and 6 thereof, had not culminated in an award as on the date of enforcement of Act No. 30 of 2013; the relevant date for determination of market value was rightly taken as 01.01.2014 for the purpose of assessment and award of compensation under the 2013 Act. This issue already stands determined by this Court vide decision dated 05.10.2023 passed in ***Krishan Singh's*** case (supra). Paragraphs No.15.6 to 16 being relevant, are extracted hereunder:-

> *"15.6 Therefore, while bringing section 24 to the present form, though the objective was to save the in process acquisitions, but at the same time the intent was also to provide enhanced compensation as per the 2013 Act. 2015 instructions, which were issued by the Central Government after having opinion from Department Of Legal Affairs, Ministry Of Law And Justice, categorically refers to the 31st report of the Standing Committee while specifying the reference date with respect to Section 24(1)(a) of the 2013 Act. In that scenario, what logically follows is that mention of reference date as date of Section 4 notification under the 1894 Act was deliberately avoided by the parliament while amending Section 24(1)(a) of the 2013 Act. Additionally, it also follows that 2015 Instructions, while*

suggesting a later date of determination of market value (i.e. 01.01.2014) with a view to ensure that the land owned/farmers/affected families get enhanced compensation under the provisions of the 2013 Act, was in furtherance of the object and purpose of the 2013 Act.

15.7 There is another aspect as well, a law/statue/rule/provision can be made retrospective only by express provision or by necessary implication. In this case, there is no express provision under 2013 Act, which makes Section 26 read with section 23 of the Act as retrospective. On the contrary, retroactive operation of section 24(1)(a) has been specifically provided by the legislature itself. But, If the date of Section 4 notification in 1894 Act, is taken as the date of section 11 notification in context of section 26 of 2013 Act, it would amount to giving retrospective effect to Section 26 of the 2013 Act, and thus would not be legally tenable preposition being contrary to the provisions of the 2013 Act as propounded by the legislature. Reliance in this regard can be placed on a Constitution Bench judgment in ***"Commissioner of Income Tax v Vatika Township",*** *reported as (2015) 1 SCC 1, wherein, Hon'ble Apex Court held that rule or law cannot be construed as retrospective unless it expresses a clear or manifest intention, to the contrary. Relevant paras of the same are reproduced hereunder:*

> *"31. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless*

a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bed rock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as lex prospicit non respicit : law looks forward not backward. As was observed in Phillips vs. Eyre[3], a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried on upon the faith of the then existing law.

32. The obvious basis of the principle against retrospectivity is the principle of 'fairness', which must *be the basis of every legal rule as was observed in the decision reported in L'Office Cherifien des Phosphates v. Yamashita Shinnihon Steamship Co. Ltd. Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later."*

15.8 In view of the above discussion and considerations, it can be observed that the scope of 31st report of the Parliamentary Standing Committee besides the draft provision of Section 24 and the final enactment of 2013 Act, which was most relevant for determination of issue in hand, was never argued before the Coordinate Bench and *therefore, Hon'ble Bench was not in a position to deliberate upon the same. The discussion by the Coordinate Bench was primarily regarding the power exercised by the Central Government under Section 113 of 2013 Act, while the issue raised before this Court is legal intent behind the 2013 Act, which lead to 2015 instructions, specifically taking into consideration the 31st report of Parliamentary Standing Committee and the retrospective application of Section 26. On this account, guided by the doctrine of* ***sub silentio****, it would not be appropriate to follow the ratio laid down in the case of* ***Rajbir's*** *case (supra) in the facts and circumstances of the present case. The meaning of a judgment being sub silentio has been explained by Hon'ble Apex Court in "***Municipal Corporation of Delhi Vs. Gurnam Kaur***" reported as (1989) 1 SCC 101, wherein, Hon'ble Apex Court referred to the explanation provided by Professor P.J. Fitzgerald, editor of the Salmond on Jurisprudence, 12th edn. was referred, which is as below:-*

> *"A decision passes sub silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind. The court may consciously decide*

in favour of one party because of point A, which it considers and pronounces upon. It may be shown, however, that logically the court should not have decided in favour of the particular party unless it also decided point B in his favour; but point B was not argued or considered by the court. In such circumstances, although point B was logically involved in the facts and although the case had a specific outcome, the decision is not an authority on point B. Point B is said to pass sub silentio."

15.9 *Accordingly, primarily relying upon the fact that even Hon'ble Apex Court based its judgment in* ***Hori Lal's case*** *(supra) and in* ***Aligarh Development Authority's case*** *(supra) on 2015 instructions, and also taking into consideration the object and purpose of the 2013 Act as discussed above, respondent No 3 is directed to determine the award by assessing the market value of the remaining land in question, measuring 17 kanal 2 marlas, as on 01.01.2014.*

16. *Therefore, impugned order dated 09.10.2017, to the extent it determines the compensation to be awarded to the petitioners as per the enhancement assessed by this Court upon vide decision dated 12.04.2008, is liable to be*

> *set aside. Respondent No 3 is directed to pass fresh award in accordance with 2013 Act by considering 01.01.2014 as the date of notification under Section 11 thereof, within a period of three months from the date of receipt of certified copy of this order."*

10. Furthermore, in the humble opinion of this Court, reliance placed upon by the learned counsel for the appellant in case of ***Deepak Aggarwal's*** case (supra) does not help the cause of the appellant as the issue before the Hon'ble Apex Court therein was confined to the question whether a notification under Section 4(1) of the 1894 Act, issued prior to the commencement of Act No. 30 of 2013, would survive for the purposes of compulsory acquisition proceedings. With all due respect to the ratio laid down by the Hon'ble Apex Court in ***Deepak Aggarwal*'s case** (supra), the said judgment did not address the issue which arises for determination in the present case(s). The question relating to the determination of market value or assessment of compensation in a case where the acquisition though commenced under the 1894 Act, however, no award had been passed prior to the enforcement of the 2013 Act, and the consequent applicability of the relevant date for valuation, did not arise for consideration nor was it adjudicated therein. Hence, the judgment, being distinguishable on facts and law, is of no assistance to the appellant herein.

10.1. For the sake of repetition, paragraph 31 of ***Deepak Aggarwal's case*** (supra) being relevant, is reproduced hereunder:-

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

11. With respect to the other contention raised on behalf of respondents/ landowners regarding grant of statutory interest in terms of Section 72 of the 2013 Act, it would be relevant to refer to the said provision and thus the same are reproduced hereunder:-

> *"72. **Collector may be directed to pay interest on excess compensation**.–If the sum, which in the opinion of the Authority concerned, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Authority concerned may direct that the Collector shall pay interest on such excess at the rate of nine per cent. per annum from the date on which he took possession of the land to the date of payment of such excess into Authority:*
>
> *Provided that the award of the Authority concerned may also direct that where such excess or any part thereof is paid to the*

> *Authority after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Authority before the date of such expiry."*

12. In the given facts and circumstances, admittedly, the possession of the acquired land was taken over by the appellant vide *rapat* No.212 dated 05.02.1993 (proved on record as Ex.D2). In such circumstances, once the benefit towards enhancement of market value was awarded in favour of respondents/landowners by the learned Authority, the respondents/ landowners were undoubtedly entitled to statutory interest on such enhancement, in terms of Section 72 of the 2013 Act from the said date of taking over of possession of the acquired land. Thus the same is accordingly granted in favour of the respondents/ landowners.

13. At this juncture, it may be noticed here that none of the parties have questioned the determination/ re-assessment of market value made by the learned Authority @ Rs.42480/- per marla. In such circumstances, the same calls for no interference and is thus, upheld.

14. In view of the discussion made hereinabove, the award dated 02.05.2017 passed by the learned Authority is accordingly modified in favour of the respondents/ landowners to the extent that

they shall be entitled to statutory interest in terms of Section 72 of the 2013 Act from the date of taking over of possession of the acquired land on 05.02.1993 which shall be over and above the determination made by the learned Authority and other benefits awarded thereupon.

15. Consequently, the appeal preferred at the instance of appellant, thus devoid of merits, is hereby dismissed whereas the appeal preferred at the instance of the landowners is partly allowed.

16. Wherever the landowner(s) has/have unfortunately expired in the appeal(s)/cross-objection(s) after filing thereof and the legal heirs have not been impleaded, they shall be at liberty to seek execution of the present decision by moving appropriate applications before the learned Executing Court.

17. Pending misc. application(s), if any, shall also stand disposed of.

07.04.2026 (**HARKESH MANUJA**)
sanjay **JUDGE**

Whether speaking/reasoned? Yes/No
Whether Reportable? Yes/No