



\$~31

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

Date of decision: 16th October, 2025

+ W.P.(C) 3352/2018

SARJIT SINGH AND ORS.

...Petitioners

Through: Mr. B.R. Sharma, Advocate.

versus

UNION OF INDIA AND ORS.

....Respondents

Through: Mr. Sanjay Kumar Pathak,
Standing Counsel with Mrs K.K
Kiran Pathak, Mr. Mohd Sueb
Akhtar and Mr. Divakar Kapil,
Advocates for R-1/LAC.

Mr. Sanjay Poddar, Senior
Advocate with Mr. Nitin Mishra,
Standing Counsel, Mr. Govind
Kumar, Mr. Apurv Kumar, Ms.
Anamika and Mr. Ankit,
Advocates for R-DDA.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. Petitioners' land was acquired by respondents under the Land Acquisition Act, 1894 (hereinafter shall be referred as '*the Act of 1894*') *vide* Award dated 27th January 2006.



2. Pursuant to the said Award, not only compensation is received by petitioners, but also the possession was taken by the respondents.
3. It appears from the submissions placed on record by the respondent that *Delhi State Industrial Infrastructure Development Cooperation Limited* (DSIIDC) have protected the land in question by putting a compound.
4. It is the case of the petitioners that they are entitled for restoration of the land in question as, for more than 20 years, the respondents have not conducted any development activity on the same, and in such an eventuality, subject to petitioners being put to the condition of return of amount of compensation received by them, the land needs to be restored to them, as the respondents does not need the land for any developmental activity in public interest.
5. It is claimed that even if the land vested with respondents under the Award in question, the non-utilization of the same by the respondents for public purpose prompted the petitioners to plead for restoration of land, and they have drawn support from the provisions of Section 101 of *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013* (**'Act of 2013'**).
6. As against above, the respective learned counsels appearing for respondents have strenuously opposed the said claim asserting that even if the land is acquired under the Act of 1894, there is no provision to release the land in favour of petitioners.
7. It is further claimed that even under the Act of 2013 referred to



above, the land cannot be released in favour of petitioners in view of legal provision reflected in the matter of ***Indore Development Authority & Ors Vs. Manohar Lal & Ors*** 2020 8 SCC 129.

8. We have considered the aforesaid submissions in the light of the law laid down by the Hon'ble Apex Court in the matter of ***Mahadeo (dead) through LRs & Ors Vs. State of Uttar Pradesh with connected matters, reported in (2013) 4 SCC 524.***

9. The Hon'ble Apex Court in *paragraph nos.14 and 15* of the said judgment observed thus:-

“14. There is no dispute with regard to the settled proposition of law that once the land is acquired and mandatory requirements are complied with including possession having been taken, the land vests in the State Government free from all encumbrances. Even if some unutilised land remains, it cannot be reconveyed or reassigned to the erstwhile owner by invoking the provisions of the Land Acquisition Act. This Court in Govt. of A.P. v. Syed Akbar [(2005) 1 SCC 558 : AIR 2005 SC 492] held that: (SCC p. 563, para 10)

“10. It is neither debated nor disputed as regards the valid acquisition of the land in question under the provisions of the Land Acquisition Act and the possession of the land had been taken. By virtue of Section 16 of the Land Acquisition Act, the acquired land has vested absolutely in the Government free from all encumbrances. Under Section 48 of the Land Acquisition Act, the Government could withdraw from the acquisition of any land of which possession has not been taken. In the instant case, even under Section 48, the Government could not withdraw from acquisition or reconvey the said land to the respondent as the possession of the land had already been



taken. The position of law is well settled. In *State of Kerala v. M. Bhaskaran Pillai* [(1997) 5 SCC 432] para 4 of the said judgment reads: (SCC p. 433)

‘4. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the directive principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through public auctions so that the public also gets benefited by getting a higher value.’”

15. In *Satendra Prasad Jain v. State of U.P.* [(1993) 4 SCC 369 : AIR 1993 SC 2517], a three-Judge Bench of this Court after considering various provisions including Section 17 of the Act observed as under: (SCC p. 374, para 15)

“15. Ordinarily, the Government can take possession of the land proposed to be acquired only after an award of compensation in respect thereof has been made under Section 11. Upon the taking of possession the land vests in the Government, that is to say, the owner of the land



loses to the Government the title to it. This is what Section 16 states. The provisions of Section 11-A are intended to benefit the landowner and ensure that the award is made within a period of two years from the date of the Section 6 declaration. In the ordinary case, therefore, when the Government fails to make an award within two years of the declaration under Section 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11-A, lapse. When Section 17(1) is applied by reason of urgency, the Government takes possession of the land prior to the making of the award under Section 11 and thereupon the owner is divested of the title to the land which is vested in the Government. Section 17(1) states so in unmistakable terms. Clearly, Section 11-A can have no application to cases of acquisitions under Section 17 because the lands have already vested in the Government and there is no provision in the said Act by which land statutorily vested in the Government can revert to the owner."

(emphasis added)

10. As such, the position as regards the release of land, claimed by petitioners in this petition under the Act of 1894, cannot be considered to the benefit of petitioners even if the land is not put to use for the purpose for which it was acquired.

11. Apart from above, if we consider the provisions of *Section 101* of the *Act of 2013*, the fact remains that the un-utilized land can be returned, that too under discretion of the Government; however, the Government can put such land in the Land Bank to be used for the Governmental/public purpose.

12. The Hon'ble Apex Court in the matter of ***Indore Development***



Authority (*supra*), in paragraph no.256 has observed thus:-

“256. This Court in V. Chandrasekaran v. Administrative Officer [V. Chandrasekaran v. Administrative Officer, (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416] dealt with the concept of vesting under the 1894 Act. The facts of the said case indicated that the appellants and the officials of the State and Development Board connived with each other to enable the appellant to grab/encroach upon the public land, which was acquired and falsified the documents so as to construct flats thereon. Considering the gravamen of the fraud, the Chief Secretary of the State was directed to trace out such officials and to take suitable action against each of them. It was also held by this Court that alienation of land subsequent to notification under Section 4(1) is void and no title passes on the basis of such sale deed. This Court held that once land vested in the State free from all encumbrances, it cannot be divested. Once land has been acquired, it cannot be restored to tenure-holders/persons interested, even if it is not used for the purpose for which it is so acquired. Once possession of land has been taken, it vests in the State free from all encumbrances. Under Sections 16 and 17, the acquired property becomes the property of the Government without any limitation or condition either as to title or possession. Reliance has been placed on Fruit & Vegetable Merchants Union [Fruit & Vegetable Merchants Union v. Delhi Improvement Trust, AIR 1957 SC 344 : 1957 SCR 1] : (AIR p. 353, para 19)

“19. That the word “vest” is a word of variable import is shown by provisions of Indian statutes also. For example, Section 56 of the Provincial Insolvency Act (5 of 1920) empowers the court at the time of the making of the order of adjudication or thereafter to appoint a receiver for the property of the insolvent and further provides that “such



property shall thereupon vest in such receiver". The property vests in the receiver for the purpose of administering the estate of the insolvent for the payment of his debts after realising his assets. The property of the insolvent vests in the receiver not for all purposes but only for the purpose of the Insolvency Act and the receiver has no interest of his own in the property. On the other hand, Sections 16 and 17 of the Land Acquisition Act (1 of 1894), provide that the property so acquired, upon the happening of certain events, shall "vest absolutely in the Government free from all encumbrances". In the cases contemplated by Sections 16 and 17 the property acquired becomes the property of Government without any conditions or limitations either as to title or possession. The legislature has made it clear that the vesting of the property is not for any limited purpose or limited duration. It would thus appear that the word "vest" has not got a fixed connotation, meaning in all cases that the property is owned by the person or the authority in whom it vests. It may vest in title, or it may vest in possession, or it may vest in a limited sense, as indicated in the context in which it may have been used in a particular piece of legislation. The provisions of the Improvement Act, particularly Sections 45 to 49 and 54 and 54-A when they speak of a certain building or street or square or other land vesting in a municipality or other local body or in a trust, do not necessarily mean that ownership has passed to any of them."

(emphasis added)

13. In the aforesaid backdrop, the legal position emerges that even if a land is acquired for a public purpose and not utilized for such a public purpose, still it is open for the government to divest the use of land for any other public purpose or put the land in the Land Bank to be used for any



public purpose.

14. In such an eventuality and having regard to the aforesaid position of law, once petitioners have received the compensation and handed over the possession of the land, they cannot assert statutory right to re-claim possession of the land.

15. The fact remains that it is for the government to look into the claim as regards the return of land if the same remains un-utilized and not required for any other public purpose.

16. That does not appear to be the position, in view of the affidavit in reply placed on record by the respondents.

17. In that eventuality, we are of the view that the exercise of extraordinary jurisdiction in favour of petitioners for directing the release of land in their favour cannot be granted.

18. That being so, the petition lacks merits and the same stands dismissed accordingly.

19. Accordingly, pending application, if any, also stands disposed of.

20. A copy of this judgment be uploaded on the website of this Court forthwith.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

OCTOBER 16, 2025/ay/ss