



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

% Judgment delivered on: 03.03.2025

+ **W.P.(C) 250/2018, CM No.1059/2018, 36153/2018 & 21810/2019**

**M/S GCG TRANSGLOBAL HOUSING  
PROJECT PVT LTD**

**.....Petitioner**

versus

**UNION OF INDIA AND ORS**

**.....Respondents**

**Advocates who appeared in this case:**

For the Petitioner : Mr. Manish Kumar & Ms. Aparajita Jha,  
Advocates.

For the Respondents : Mr. Naushad Ahmed Khan & Ms. Supriya  
Malik, Advocates for LAC.

Ms. Aakanksha Kaul & Ms. Rhea  
Borkotoky, Advocates for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**JUDGMENT**

**VIBHU BAKHRU, J**

1. The petitioner – a company registered under the provisions of the Companies Act, 1956 – has filed the above captioned petition claiming ownership of the land admeasuring 15 acres situated in the revenue estate of Village Bamnauli, Near Bijwasan, in the National Capital Territory of Delhi, New Delhi bearing khasra Nos. (Old/New, with land measurements) as 350 (28/1) 4-16, 351 (28/10) 4-16, 352



(28/09) 4-16, 353 (28/02) 4-16, 331 (29/25) 2-19, 347 (29/15) 4-16, 346 (29/16) 2-00, 346 (26/16) 2-16, 348 (29/06) 4-16, 322 (29/7) 4-16, 323 (29/14) 4-16, 330 (29/17) 0-07, 330 (29/17) 5-17, 321 (29/8) 1-00, 324 (29/13) 1-00, 329 (29/18) 1-00, 354 (28/3) 4-16, 355 & 356 (28/8) 4-16, 358 (28/7) 4-13 and 359/1 (28/4) 3-06 (hereafter *the subject land*).

2. The petitioner has filed the present petition, *inter alia*, praying that the acquisition of the subject land be declared as lapsed by virtue of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereafter *the 2013 Act*).

#### **FACTUAL CONTEXT**

3. The petitioner claims that it had purchased the subject land by virtue of four sale deeds dated 12.10.1999, 18.10.1999, 12.11.1999 and 25.11.1999, which were executed pursuant to four different agreements to sell (ATS) dated 05.07.1999, 04.07.1999, 27.07.1999 and 05.08.1999 respectively.

4. There were certain disputes that arose in respect of the subject land. One Mr Shridev Sharma had instituted a civil suit, being CS (OS) No.338/2000, for permanent injunction against the petitioner and also obtained interim orders. Mr Shridev Sharma (plaintiff in CS (OS) No.338/2000) claimed that he was in joint possession of the subject land as a licensee of the petitioner. He claimed that he had advanced a loan of ₹1,69,95,000/-. It is stated that while CS(OS) No.338/2000



was pending, another suit seeking the relief of permanent injunction restraining the defendants, which included the petitioner, from forcibly dispossessing the plaintiff from the subject land till the repayment of amount of ₹1,69,70,000/- together with interest at the rate of twenty-four per cent per annum, was filed. Thereafter, the said plaintiff filed another suit being CS(OS) No.1077/2000 seeking recovery of ₹2,04,76,219/- along with interest at the rate of twenty-four per cent per annum and in default, foreclosure, and possession of the subject land.

5. The initial suit CS(OS) No.338/2000 was withdrawn since the cause of action was fully covered in the second suit being CS (OS) No.1077/2000. Thereafter, the petitioner filed a civil suit for redemption, mandatory injunction and permanent injunction being CS (OS) 93/2012, which was renumbered as CS (COMM) No. 203/2017. In the said proceedings, the petitioner deposited the amount as claimed by the defendants, which was also the subject matter of the claim involved in CS (OS) No.1077/2000. The court issued directions to maintain *status quo* as to the title of the subject land subject to the said deposit.

6. The said dispute was finally settled between the parties and this court passed an order dated 08.12.2017 disposing of the CS (COMM) No.203/2017 in terms of the settlement arrived at between the parties. Accordingly, the title documents were made over to the petitioner on payment of the redemption amount. The petitioner claims that in view



of the dispute and the interim orders passed by the court, the subject land was not mutated in favour of the petitioner.

7. On 04.11.2004, a notification was issued under Section 4 of the Land Acquisition Act, 1894 (hereafter the *LA Act*) whereby certain land including the subject land were proposed to be acquired for the Planned Development of Delhi. The notification under Section 4 of the LA Act was followed by a notification dated 31.10.2005 under Section 6 of the LA Act. Thereafter, the award being Award No.1/2007-08 (hereafter *the Award*) in respect of certain land in Village Bannoli including the subject land was pronounced under Section 11 of the LA Act.

8. The petitioner claims that it is in possession of the subject land, thus, neither the possession of the subject land was taken over by the Land Acquisition Collector (*LAC*) nor the compensation has been paid to it. Accordingly, the petitioner claims that the acquisition of the subject land has lapsed by virtue of Section 24(2) of the 2013 Act.

### **RIVAL CONTENTIONS**

9. Respondents nos. 4 and 5 [LAC and the Delhi Development Authority (*DDA*)] have filed their counter affidavits to contest the present petition.



10. Mr Khan, the learned counsel appearing for the LAC contested the petition on two grounds. First, he submitted that the present petition is not maintainable as the petitioner is not the recorded owner of the subject land. He submitted that the revenue records, reflects M/s Sailesh Charitable Trust, through BL Sailesh, SL Ratnakar, and Ashok Kumar as the owners of the subject land. He referred to the decision of the Supreme Court in *Shiv Kumar & Another v. Union of India & Others*<sup>1</sup> and on the strength of the said decision contended that since the petitioner is not the recorded owner, it is not entitled to challenge the acquisition of the subject land.

11. Next, he submitted that the possession of the subject land was taken over and the compensation for the subject land was deposited. He contended that the notices were issued under Section 12(2) of the LA Act to the recorded owners, but none had come forward to collect the compensation. He submits that in the given facts, the acquisition of the subject land had not lapsed by virtue of Section 24(2) of the 2013 Act as neither of the twin conditions (possession not taken over and the compensation not paid) are satisfied.

12. Mr. Kumar, the learned counsel appearing for the petitioner stoutly contested the aforesaid contentions. He submitted that in the present case neither the possession of the subject land was taken over nor the compensation was paid for the same. He also referred to the pleadings to state that the petitioner's claim that the possession of the

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<sup>1</sup> (2019) 10 SCC 229



subject land has not been taken over and compensation has not been paid, has not been effectively traversed.

## REASONS AND CONCLUSIONS

### *The questions involved*

13. The principal controversy involved in the present petition is limited to ascertaining whether the acquisition of the subject land has lapsed under Section 24(2) of the 2013 Act?

14. At this stage, it is relevant to refer to Section 24(2) of the 2013 Act, which is set out below: -

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

(1) \*\*\*

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 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.”



15. In *Indore Development Authority (LAPSE -5J) v. Manohar Lal and Ors.*<sup>2</sup> the Supreme Court has authoritatively held that Section 24(2) of 2013 Act would be applicable only when both the conditions – that is, neither the compensation has been paid nor the possession of the land has been taken over – are satisfied. The conclusions as set out in the aforesaid decision are reproduced below:

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the 2013 Act under the 1894 Act as if it has not been repealed.

366.3. The word “or” used in Section 24(2) between possession and compensation has to be read as “nor” or as “and”. The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

366.4. The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2)

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<sup>2</sup> (2020) 8 SCC 129



in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.

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

366.7. The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).



366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

16. Whilst the petitioner contends that neither the possession of the subject land has been taken over nor the compensation has been paid, respondents no. 4 and 5 (LAC and DDA) dispute the same. The respondents also question the locus of the petitioner to challenge the acquisition of the subject land.

17. In view of the above, the following questions require to be addressed:

- (1) Whether the petitioner has the locus standi to challenge the acquisition of the subject land and maintain the present petition?
- (2) Whether the LAC had taken over possession of the subject land?



(3) Whether the LAC had paid the compensation for acquisition of the subject land?

***Locus Standi of the petitioner***

18. The first and foremost question to be addressed is whether the present petition is maintainable. It was contended on behalf of the LAC and DDA that the present petition is not maintainable as the petitioner is a subsequent purchaser and not the recorded owner of the subject land.

19. The learned counsel for LAC and DDA advanced this contention on the strength of the decision of the Supreme Court in *Shiv Kumar & Another v. Union of India & Others*<sup>3</sup>. They pointed out that in *Govt. of NCT of Delhi v. Manav Dharam Trust & Anr.*<sup>4</sup> the Supreme Court had considered the question whether subsequent purchaser / power of attorney holder had any locus standi to file a petition seeking declaration that the acquisition proceedings under Section 24(2) of the 2013 Act had lapsed. After referring to certain decisions, the Supreme Court concluded as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power of attorney holder, etc., are all persons who are interested in compensation/land owners/affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua

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<sup>3</sup> (supra)

<sup>4</sup> 2017 (6) SCC 751



the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondents/writ petitioners do not have any *locus standi*.”

20. The said decision was overruled in a subsequent decision in *Shiv Kumar & Another v. Union of India & Others (supra)*. The Supreme Court found that its earlier decision in *Govt. of NCT of Delhi v. Manav Dharam Trust & Anr (supra)* was *per curium* and did not lay down the law correctly.

21. It is important to note that the question considered by the Supreme Court in *Shiv Kumar and Another v. Union of India & Others (supra)* was whether a subsequent purchaser, purchasing a property after issuance of the notification under Section 4 of the LA Act can invoke the provisions of Section 24(2) of the 2013 Act. This is noted in first paragraph of the said decision. The same is reproduced as under: -

“1. The question involved in the matter is whether a purchaser of the property after issuance of notification under section 4 of the Land Acquisition Act, 1894 (for short, “the 1894 Act”), can invoke the provisions contained in section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, “the Act of 2013”).”

22. The Supreme Court noted its earlier decisions including the decisions in the case of *UP Jal Nigam v. Kalra Properties (P) Limited*<sup>5</sup>; *Sneh Prabha v. State of UP*<sup>6</sup>; *Meera Sahni v. State (NCT*

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<sup>5</sup> (1996) 3 SCC 124

<sup>6</sup> (1996) 7 SCC426



*of Delhi*<sup>7</sup>; and *V. Chandrasekaran v Administrative Officer*<sup>8</sup>, whereby it was held that a person purchasing the land after the notification under Section 4 of the LA Act was published, did not acquire any right, title or interest in the land.

23. In *UP Jal Nigam v. Kalra Properties (P) Limited (supra)* the Supreme Court held that the sale of land after the notification under Section 4 of the LA Act was published, is void against the State. This view also resonates in *Sneh Prabha v. State of UP (supra)* and *Chandrasekaran v Administrative Officer (supra)*.

24. In *Meera Sahni v. State (NCT of Delhi) (supra)* the Supreme Court held that a subsequent purchaser cannot challenge the acquisition proceedings, but would be entitled to the compensation for the acquired land. A similar view was also expressed by the Supreme Court in *Rajasthan State Industrial Development & Investment Corporation v. Subhash Sindhi Coop Housing Society*<sup>9</sup>: (2013) 5 SCC 427.

25. In *Shiv Kumar and Another v. Union of India & Others (supra)*, the Supreme Court referred to the aforesaid decisions and held as under: -

“19. The Act of 2013 presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after section 4 notification as sale deed is void under the Act of 1894, cannot claim rehabilitation and resettlement as per policy envisaged

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<sup>7</sup> (2008)9 SCC 177

<sup>8</sup> (2012) 12 SCC 133

<sup>9</sup> (2013) 5 SCC 427



under the Act of 2013, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to section 24(2) under the Act of 2013. An original landowner cannot be deprived of higher value under the Act of 2013, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under proviso to Section 24(2) on recorded owners under Act of 1894. We have come across instances in which after notifications under section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the Act of 2013 as it is to be given to the owner as mentioned in the notification.

20. Given that, the transaction of sale, effected after section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim 'possession' and challenge the acquisition as having lapsed under section 24 by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought under section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the Act of 2013 is to get the property back



whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

22. 'Void is, ab initio,' a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration under Section 24 of the Act of 2013; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights under section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the Act of 2013 cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in U.P. Jal Nigam (supra) which is followed in M. Venkatesh (supra) and other decisions and consequently claim declaration under Section 24 of the Act of 2013. What cannot be done directly cannot be permitted in an indirect method.

23. The provisions of the Act of 2013 aimed at the acquisition of land with least disturbance to the landowners and other affected families and to provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired or are affected and to make adequate provisions for such affected persons for their rehabilitation and resettlement. The provisions of Act of 2013 aim at ousting all inter-meddlers from the fray by ensuring



payment in the bank account of landholders under section 77 of the Act.

24. The intendment of Act of 2013 is to benefit farmers etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of Act of 2013. It is not open to them to claim that the proceedings have lapsed under Section 24(2).”

26. It is clear from the above that a person purchasing land after the notification under Section 4 of the LA Act is published, has no *locus* to challenge the acquisition proceedings for the reason that any such sale or transaction is void against the State and is not binding.

27. The aforementioned decisions have no application in the facts of the present case. In the present case, the petitioner had acquired the title of the subject land by virtue of the four sale deeds executed on dated 12.10.1999, 18.10.1999, 11.11.1999 and 25.11.1999. Thus, the petitioner is not a person who has purchased the subject land subsequent to the notification under Section 4 of the LA Act, which was published on 04.11.2004. The fact that the subject land was not mutated in the name of the petitioner in the land records, does not mean that the petitioner had not acquired title or interest in the subject land prior to 04.11.2004. It is settled law that the mutation does not confer title. The petitioner derives its title from the registered sale deeds conveying the subject land in its favor.

28. In view of the above, we are unable to accept that the petitioner lacks the *locus standi* to seek declaration that the acquisition of the



subject land has lapsed by virtue of Section 24(2) of the 2013 Act. The said contention is thus rejected.

### ***Possession of Land***

29. The second question to be addressed is whether the LAC had taken over possession of the subject land.

30. In *Banda Development Authority v. Moti Lal Aggarwal*<sup>10</sup> the Supreme Court referred to a number of decisions and summarized the principles as to the manner in which the possession of the acquired land could be stated to have been taken, as under: -

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

(i) No hard-and-fast rule can be laid down as to what act would constitute taking of possession of the acquired land.

(ii) If the acquired land is vacant, the act of the State authority concerned to go to the spot and prepare a *panchnama* will ordinarily be treated as sufficient to constitute taking of possession.

(iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will, by itself, be not sufficient for taking possession. Ordinarily, in such cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in

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<sup>10</sup> (2011) 5 SCC 394



the presence of independent witnesses and get their signatures on the *panchnama*. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.

(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.”

31. In *Indore Development Authority (LAPSE-5 J.) v. Manoharlal*, (*supra*), the Constitution Bench of the Supreme Court concurred with the aforesaid view. The Supreme Court further observed as under: -

“In our opinion, under the 1894 Act when possession is taken after award is passed under Section 16 or under Section 17 before the passing of the award, land absolutely vests in the State on



drawing of *panchnama* of taking possession, which is the mode of taking possession. Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner.”

32. The Constitution Bench further concluded that “*mode of taking possession under the 1894 Act and as contemplated under Section 24(2) of the Act is by drawing an inquest report/memorandum*”.

33. The subject land is a large tract of substantially vacant land. Bearing the aforesaid in mind, we may now examine whether the LAC had taken over possession of the subject land.

34. It is relevant to refer to the counter affidavit filed by the LAC. Paragraphs 5, 5A & 6 of the counter affidavit filed by the LAC are reproduced below: -

“5. That it is submitted that the lands of village Bannoli were notified vide Notification under section 4 of the Land Acquisition Act dated 04.11.2004 which was followed by Notification under section 6 of the said Act vide Notification dated 31.01.2005. The Award No. 1/07-08 dated 06.08.2007 was also passed in accordance with the law under Section 11 of the Land Acquisition Act, 1894.

5A. That it is submitted that the physical possession of the lands falling in only Khasra number 29//5/2(2-17) was duly taken on the spot on 14.09.2007 by preparing possession proceeding and was handed over to the DDA on the spot. On 23/08/2007 notice U/s 12(2) was issued to the recorded owner. It is submitted that the compensation however could not be paid as the recorded owner never turned up to claim the



compensation and as per the copies of the sale deed, attached with the writ petition, it transpired that the subject land has been sold to the petitioner herein. It is submitted that the petitioner did not get the said land mutated in its name nor the petitioner also approached the office of answering respondent seeking compensation.

6. That it is submitted that the Award No. 01/07-08 was passed for the total land admeasuring 2100 Bigha 06 Biswa and out of which the possession of 1331 Bigha 06 Biswa was taken after following the due process of law. It is further submitted that the possession of the land measuring 769 Bigha could not be taken due to the stay orders passed by the Hon'ble Court and built up. It is submitted that the total compensation determined by the answering respondent vide the above-said Award was Rs.1,11,75,72,754/- and out of which, a total compensation of Rs.89,08,80,652/- was duly disbursed to the recorded owners and the balance amount of compensation left to be paid is Rs.22,66,92,102/-. It is thus apparent that the answering respondent has not only taken the possession of substantial lands under reference but also has disbursed the substantial quantum of compensation against the said Award.”

[emphasis added]

35. It is clear from the above, that LAC's case is that the physical possession of the land falling in Khasra No.29//5/2 (2-17) was taken on the spot on 14.09.2007 by preparing possession proceeding and the same was handed over to the DDA on the same date. The LAC claims that out of the total land admeasuring 2100 Bighas 06 Biswas, which was covered under Award No.1/2007-08, possession of only 1331 Bigha 06 Biswas was taken after following the due process of law. The possession of the remaining 769 Bigha was not taken over by the LAC, which according to the LAC was on account of the stay



orders passed by this court and on account of the fact that the properties were built up. However, despite seeking time to take instructions, on a number of occasions, the LAC has not produced any material to establish that it was interdicted from taking over the possession of the subject land by any order passed by any court. Although, it is stated that the possession of 1331 Bigha 06 Biswa was taken over, but there is no material on record to indicate that the subject land is part of the land, the possession of which was taken over by the LAC. The only specific assertions made in the counter affidavit is in regard to taking over the possession of the land comprising Khasra No. 29//5/2 (2-17), which the LAC claims was taken over on 14.09.2007. Despite several opportunities, no record was produced before this court to establish as to how and when the possession of any other part of the subject land was taken over by the LAC.

36. It is also relevant to note that the above captioned petition was listed on 10.01.2018 and this court had directed the parties to maintain the *status quo* with regard to the title, nature, possession and construction on the subject land. Thereafter, the petitioner filed an application being CM No.6376/2018 seeking directions to permit the petitioner to get the boundary wall of the subject land repaired under the supervision of the local police. The petitioner claims that it has been in an uninterrupted possession of the subject land for the last twenty years and the boundary wall of subject land, being an old construction, was broken at several places. Thus, the petitioner sought



directions for permitting repairs of the same. The petitioner also produced the photographs of the parts of the boundary wall that were broken. The photographs and the averments establish that the subject land is largely vacant land and is surrounded by a boundary wall. The director of the petitioner also filed an affidavit affirming that the length of the boundary wall was approximately 4811 feet and approximately 130 feet of the boundary wall required repairs at five different places. The affidavit was also accompanied with the photographs of the points where the wall was broken and included the details as to the approximate length of the wall that required repairs at the respective points.

37. It is also material to note that DDA has also filed the counter affidavit affirming that *“the possession of the land under reference has not handed over to DDA by LAC/L&B”*.

38. The LAC has not produced any material to establish that it had taken over possession of any part of the subject land including the land comprising Khasra No.29//5/2 (2-17). However, in respect of the land comprising in Khasra No.29//5/2 (2-17), the LAC has affirmed that it had taken possession of the said land on the spot on 14.09.2007. Thus, we accept that the possession of the said land [Khasra no.29//5/2 (2-17)] was taken over. However, that does not appear to be a part of the subject land. It is not necessary to enter into the controversy whether the said tract of land [Khasra No.29//5/2 (2-17)] is a part of the subject land. Suffice it to state that we accept that the possession of the said land was taken over by the LAC as affirmed by the LAC. Thus, if the



said land is covered under the notification under Section 4 of the LA Act and the Award, the acquisition of that land cannot be declared to have been lapsed by virtue of Section 24(2) of the 2013 Act. But in respect of lands other than the land comprising in Khasra No.29//5/2 (2-17), there is no specific assertion as to how and when the possession of it was taken over by the LAC. Absent any material to establish that LAC had taken over the possession of the subject land, we are unable to accept that LAC had taken over the possession of the subject land.

39. It is material to note that it is the LAC's case that out of the total land measuring 2100 Bigha 06 Biswa covered under the Award No.1/2007-08, the possession of only 1331 Bigha 06 Biswa was taken after following the due process of law. The remaining land measuring 769 Bigha could not be taken due to the stay orders passed by this court or the land being built up. The LAC acknowledges that it did not take over the possession of those lands. The LAC has also failed to substantiate its reasons for not taking over the subject land.

40. Admittedly, the subject land is not built-up land. There is no assertion by the LAC to the aforesaid effect. Thus, the only other explanation offered by the LAC for not taking over the possession is that it was interdicted from doing so by the stay orders passed by this court. However, the LAC has neither referred to nor provided any particulars of the stay order(s), whereby the LAC was interdicted from taking over the possession of the subject land.



41. It is relevant to note that whilst it is contended on behalf of the LAC that possession of the land that was taken over by the LAC, was handed over to the DDA; the DDA has in its counter affidavit, affirmed in unequivocal terms that the “possession of the land under reference has not been handed over by the LAC/Land & Building Department (hereafter *L&B Department*)”. The only conclusion that can be drawn is that the subject land is a part of the land, the possession of which was not taken over by the LAC. [769 Bigha out of total and 2100 Bigha 06 Biswa].

42. In view of the above, we accept that LAC has not taken over possession of the subject land.

***Whether compensation paid***

43. The next question to be addressed is whether the second condition regarding the payment of compensation to the land owner is satisfied in the present case.

44. It is the LAC’s case that it had issued notice under Section 12(2) of the LA Act to the recorded owners; however, none had come forward to claim compensation. According to Mr. Khan, the learned counsel appearing for the LAC, the issuance of notice under Section 12(2) of the LA Act, amounts to tendering the compensation payable in respect of the acquisition of the subject land. Therefore, the requisite condition that the compensation amount was not paid as stipulated under Section 24(2) of 2013 Act, is not satisfied.



45. In *Indore Development Authority (LAPSE-5 J.) v. Manoharlal*, (*supra*) the Constitution Bench of the Supreme Court had interpreted the expression “*compensation has not been paid*” as used in Section 24(2) of 2013 Act, to mean that the compensation has not been tendered for payment under Section 31(1) of the LA Act. We consider it apposite to set out the following extract from the said decision: -

202. Section 24(2) deals with the expression where compensation has not been paid. It would mean that it has not been tendered for payment under Section 31(1). Though the word “paid” amounts to a completed event however once payment of compensation has been offered/tendered under Section 31(1), the acquiring authority cannot be penalised for non-payment as the amount has remained unpaid due to refusal to accept, by the landowner and Collector is prevented from making the payment. Thus, the word “paid” used in Section 24(2) cannot be said to include within its ken “deposit” under Section 31(2). For that special provision has been carved out in the proviso to Section 24(2), which deals with the amount to be deposited in the account of beneficiaries. Two different expressions have been used in Section 24. In the main part of Section 24, the word “paid” and in its proviso “deposited” have been used.

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208. It was submitted that mere tender of amount is not payment. The amount has to be actually paid. In our opinion, when amount has been tendered, the obligation has been fulfilled by the Collector. Landowners cannot be forced to receive it. In case a person has not accepted the amount wants to take the advantage of non-payment, though the amount has remained (sic unpaid) due to his own act. It is not open to him to contend that the amount has not been paid to him, as such, there should be lapse of the proceedings. Even in a case when offer for payment has been made



but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holding, for that adequate provisions have been given in the proviso also to Section 24(2). The scheme of the 2013 Act in Sections 77 and 80 is also the same as that provided in Sections 31 and 34 of the 1894 Act.

209. It was urged that landowners can seek investment in an interest bearing account, there is no doubt about that investment can be sought from the court under Sections 32 and 33 of the 1894 Act, but interest in government securities is not more than what is provided in Section 34 @ 9% from the date of taking possession for one year and thereafter, @ 15%. We take judicial notice of the fact in no other government security rate of interest is higher on the amount being invested under Sections 32 and 33 of the 1894 Act. Higher rate of interest is available under Section 34 to the advantage of landowners. It was submitted that in case the amount is deposited in the court, it is on behalf of the beneficiary. The submission overlooks the form in which it used to be deposited in the treasury too, that amount is also credited in the treasury payable to the beneficiary specified in his name with land details, date of award, etc.

210. There is another reason why this Court holds that such an interpretation is reasonable and in tune with parliamentary intent. Under the old regime, it was open to the Collector to fix a convenient date or dates for announcement of award, and tender payment. In the event of refusal by the landowner to receive, or in other cases, such as absence of the true owner, or in case of dispute as to who was to receive it, no doubt, the statute provided that the amount was to be deposited with the court: as it does today, under Section 77. Yet, neither during the time when the 1894 Act was in operation, nor under the 2013 Act, the entire acquisition does not lapse for non-deposit of the compensation amount in court. This is a significant aspect which none of the previous decisions have



noticed. Thus, it would be incorrect to imply that failure to deposit compensation [in court, under Section 31(2)] would entail lapse, if the amounts have not been paid for five years or more prior to the coming into force of the 2013 Act. Such an interpretation would lead to retrospective operation, of a provision, and the nullification of acquisition proceedings, long completed, by imposition of a norm or standard, and its application for a time when it did not exist.

211. If the expression “deposited” is held to be included in the expression “paid” used in Section 24(2) of the 2013 Act, inconsistency and repugnancy would be caused as between the proviso and the main subsection, which has to be avoided and the non-compliance of the provisions of Section 31(2) is not fatal. Even if the amount has not been deposited, higher compensation has to follow in the exigency proviso to Section 24(2).

212. In Black’s Law Dictionary, the word “tender” has been defined to mean thus:

“tender, n. (16c) 1. A valid and sufficient offer of performance; specific, an unconditional offer of money or performance to satisfy a debt or obligation a tender of delivery. The tender may save the tendering party from a penalty for non-payment or non-performance or may, if the other party unjustifiably refuses the tender, place the other party in default. Cf. offer or performance; consignment.”

213. It is apparent that “tender” of the amount saves the party tendering it from the consequence to be visited on non-payment of the amount. The obligation to make the payment has been considered in various other laws and decisions. When obligation to payment is fulfilled as to the scheme in the context of a particular act, for that purpose, decisions under various



other laws are relevant and cannot be said to be irrelevant.”

46. The Supreme Court also referred to the Standing Order No.28/1909 issued by the State of Punjab, which is applicable to Delhi, setting out the modes of payment. It would be relevant to refer to the following passage of the aforesaid decision of the Constitution Bench: -

230. Standing Order No. 28 was issued in 1909 by the State of Punjab and was applicable to Delhi also, which provided five modes of payment in Paras 74 and 75 thus:

“74. Methods of making payments. —There are five methods of making payments:

- (1) By direct payments, see Para 75(I) infra
- (2) By order on treasury, see Para 75(II) infra
- (3) By money order, see Para 75(III) infra
- (4) By cheque, see Para 75(IV) infra
- (5) By deposit in a treasury, see Para 75(V) infra

75. Direct payments. —

\* \* \*

(V) By treasury deposit.—In giving notice of the award under Section 12(2) and tendering payment under Section 31(1) to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date to receive payment of the compensation awarded to them, intimating also that no interest will be allowed to them if they fail to appear, if they do not appear and do not apply for a



reference to the civil court under Section 18, the officer shall after any further endeavors to secure their attendance that may seem desirable, cause the amounts due to be paid to the treasury as revenue deposits payable to the persons to whom they are respectively due and vouched for in the form marked E below. The officer shall also give notice to the payees of such deposits, specifying the treasury in which the deposit has been made. When the payees ultimately claim payment of sums placed in deposit, the amounts will be paid to them in the same manner as ordinary revenue deposit. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payee belong in order that the number of undisbursed sums to be placed in deposits on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative whether before or after deposit of the amount awarded, such representative, must have legal authority for receiving the compensation on behalf of his principal.”

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Sub-para (V) of the above makes it clear that payment is credited to the treasury when a person who is served with a notice under Section 12(2) of the 1894 Act, is not present and the award is passed. When a notice is given to receive the payment of compensation and in case they fail to appear, the amount has to be paid to the treasury as revenue deposit payable to the landowner.

231. **Rules and the Standing Orders are binding on the authorities concerned and they have to follow them.** They deposit the amounts in court only when a reference (for higher compensation) is sought, not otherwise. Even if a person refuses to accept it and the amount is deposited in court or even it is not tendered, only higher interest follows under Section 34. Once Rules have prevailed since long and even if it is assumed that deposit in court is mandatory on being prevented from payment as envisaged under Section



31(1), the only liability to make the payment of higher interest is fastened upon the State. The liability to pay the amount with interest would subsist. When amounts are deposited in court, there would occur a procedural irregularity and the adverse consequence envisaged is under Section 34 of the 1894 Act. The consequence of non-deposit in the court is that the amount of the landowner cannot be invested in the government securities as envisaged under Sections 32 and 33 of the 1894 Act, in which interest is not more 15%. Thus, no prejudice is caused to the landowners rather they stand to gain and still payment is safe as it is kept in the court. We have already held that there is a distinction between the expression “paid” and “deposited”, thus the amount being deposited as per Rules in the treasury or as per the Standing Orders considering the scheme of Section 31 read with Section 34 of the 1894 Act, which are in pari materia with Sections 77 and 80 of the 2013 Act. We are of the considered opinion that acquisition cannot be invalidated, only higher compensation would follow in case amount has not been deposited with respect to majority of landholdings, all the beneficiaries would be entitled for higher compensation as envisaged in the proviso to Section 24(2).

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366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. **The obligation to pay is complete by tendering the amount under Section 31(1).** The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.”

47. In view of the authoritative pronouncement of the Constitution Bench, there is no cavil that the tendering of the compensation due to



the land owner under Section 31(1) of the LA Act would be sufficient to exclude the applicability of Section 24(2) of the 2013 Act, as the same is required to be construed as the compensation paid for the purpose of the said Section.

48. In view of the above, the question that follows is whether the LAC has tendered the compensation for the subject land. Since the subject land was not mutated in the name of the petitioner, the LAC could not expect to seek out the petitioner and offer the payment of compensation of the acquired land. Tendering of the amount due to the recorded owner would, in our view, constitute tendering of the compensation under Section 31(1) of the LA Act which would render Section 24(2) of the 2013 Act inapplicable. Thus, the question that follows is whether the LAC had tendered the compensation to the recorded owner of the subject land.

49. As noted above, it is contended on behalf of the LAC that issuance of notice under Section 12(2) of the LA Act would constitute tendering of the compensation of the subject land. Section 12(2) of the LA Act reads as under: -

**“12. Award of Collector when to be final. –**

- (1) \*\*\*                      \*\*\*
- (2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.”

50. The plain reading of Section 12(2) of the LA Act indicates that it is the notice of the award to the persons who are interested and were



not present personally or by their representative when the award was made.

51. In *Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer & Anr.*<sup>11</sup>, the Supreme Court had held as under:

“5. In dealing with this question, it is relevant to bear in mind the legal character of the award made by the Collector under Section 12. In a sense it is a decision of the Collector reached by him after holding an enquiry as prescribed by the Act. It is a decision, inter alia, in respect of the amount of compensation which should be paid to the person interested in the property acquired; but legally the award cannot be treated as a decision; it is in law an offer or tender of the compensation determined by the Collector to the owner of the property under acquisition. If the owner accepts the offer no further proceeding is required to be taken; the amount is paid and compensation proceedings are concluded. If, however, the owner does not accept the offer Section 18 gives him the statutory right of having the question determined by court, and it is the amount of compensation which the court may determine that would bind both the owner and the Collector. In that case it is on the amount thus determined judicially that the acquisition proceedings would be concluded. It is because of this nature of the award that the award can be appropriately described as a tender or offer made by the Collector on behalf of the Government to the owner of the property for his acceptance. In *Ezra v. Secretary of State* [(1903) ILR 30 Cal 605-36 at p. 86] it has been held that “the meaning to be attached to the word ‘award’ under Section 11 and its nature and effect must be arrived at not from the mere use of the same expression in both instances but from the examination of the provisions of the law relating to the Collector's proceedings culminating in the award. The consideration to which have referred satisfy us that the Collector acts in the matter of the enquiry and the valuation of the land only as an agent of the Government and not as a judicial officer; and that consequently, although the Government is bound by his proceedings, the

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<sup>11</sup> 1961 SCC OnLine SC 140



persons interested are not concluded by his finding regarding the value of the land or the compensation to be awarded”. Then the High Court has added that such tender once made is binding on the Government and the Government cannot require that the value fixed by its own officer acting on its behalf should be open to question at its own instance before the civil court. The said case was taken before the Privy Council in *Ezra v. Secretary of State for India* [(1905) ILR 32 Cal 605] and their Lordships have expressly approved of the observations made by the High Court to which we have just referred. Therefore, if the award made by the Collector is in law no more than an offer made on behalf of the Government to the owner of the property then the making of the award as properly understood must involve the communication of the offer to the party concerned. That is the normal requirement under the contract law and its applicability to cases of award made under the Act cannot be reasonably excluded. Thus considered the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. If that be the true position then the literal and mechanical construction of the words “the date of the award” occurring in the relevant section would not be appropriate.”

[emphasis added]

52. In the aforesaid view, an award can be considered as an offer and tender of compensation. It would thus follow that the communication of the award in terms of Section 12(2) of the LA Act would cement the said tender. It would enable the person who was not present when the award was made to collect the compensation as determined under the award.



53. We also consider it apposite to refer to the following observations made by the Supreme Court in *Government of NCT of Delhi & Anr. v. Dayanand & Anr.*<sup>12</sup>:

5. Even otherwise, it is required to be noted that in the present case the possession was taken in respect of the major portion of the land i.e. 19 biswas out of 20 biswas and the possession of one (01) biswas could not be taken due to built-up. Even the notice under Section 12(2) was issued upon the original writ petitioner vide registered post No.4065 dated 27.02.2009, however, when the original writ petition did come to collect the compensation, it was sent to the revenue deposit. Once the notice under Section 12(2) of the LA Act was issued and served upon the original writ petitioner and he was called upon to collect the compensation and thereafter, when he did not come to collect the compensation and then the compensation was sent to the revenue deposit, thereafter it would not be open for the original writ petitioner to contend that as the compensation has not been paid the acquisition proceedings are deemed to have lapsed. The original writ petitioner cannot be permitted to take the benefit of his own conduct/wrong.

6. Applying the law laid down by this Court in the case of Indore Development Authority (supra) and considering the facts narrated hereinabove and more particularly, when the major portion of the land in question was taken as far as back on 13.04.2009 by drawing possession proceedings which is held to be permissible in the case of *Indore Development Authority v. Manoharlal: (2020) 8 SCC 129* and taking into consideration the fact that the notice under Section 12(2) of the LA Act was issued and served upon the original writ petitioner but he did not collect the compensation and therefore, the same was again sent to the revenue deposit, the impugned judgment and order passed by the High Court declaring that the

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<sup>12</sup> (2023) 5 SCC 381



acquisition in respect of land in question is deemed to have lapsed is unsustainable.

54. It follows from the above observations that if a notice under Section 12(2) of the LA Act is served on the landowner and the landowner is called upon to collect the compensation, the same would constitute tendering of the compensation.

55. Having stated the above, it is also relevant to note that there is no specific format of notice under Section 12(2) of the LA Act. It is also important that notice under Section 12(2) of the LA Act should be in conformity with the Standing Order No.28/1909 as applicable to NCT of Delhi. As noted above, the Supreme Court in *Indore Development Authority (LAPSE-5 J.) v. Manoharlal (supra)* had held the same to be mandatory. In addition, it is also necessary that the said notice comply with the Standing Instructions dated 12.05.2006 issued by the Government of NCT of Delhi, which provides that a notice under Section 12(2) of the LA Act be issued as soon as the award is pronounced and the money is received by the LAC. It also provides that a copy of the notice be kept on the record.

56. In *DDA v. Sukhbir Singh*<sup>13</sup>, the Supreme Court had examined the mode of payment of the compensation in the context of the Standing Order No.28/1909 and Standing Instructions of Government of NCT of Delhi dated 12.05.2006. The Supreme Court referred to Standing Order No.28/1909 and observed as under: -

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<sup>13</sup> (2016) 16 SCC 258



“17. Far from the aforesaid Standing Order coming to the assistance of the appellants, it is clear that the said Standing Order fleshes out Section 31 of the Land Acquisition Act by insisting that compensation must be paid as soon as the award is announced, vide Para 71. Sufficient notice must be given to enable all payees to assemble at a place where they will receive their dues immediately. It is emphasised by the said paragraph that much trouble will be avoided if the principle that payment of compensation should be made at the time of the award, is strictly observed. Also, it is important that the authorities draw in advance a sum sufficient to cover the probable amount of the award and to make payments.

18. Para 73 makes it clear that payment may be accepted either without protest or under protest, and Para 74 makes it clear that there are five methods of making payment. The first four methods are all methods strictly in consonance with Section 31 of the Land Acquisition Act in that they are all direct payments that have to be made to persons ready to accept compensation. This is clear from a reading of sub-paras (I) to (IV) of Para 74. Even the second method, which is payment by order on the treasury, is a direct method of payment in cases where no officer is specially deputed for acquisition of land. In such cases, instead of making a direct payment, a receipt is countersigned making it immediately payable at the treasury to the payee. Otherwise, in certain circumstances, payment is to be made by money order and/or by cheque. **When we come to sub-para (V), it is clear that payment is made into the treasury only when persons who are served notice under Section 12(2) are not present personally at the time the award is delivered.** Even though they may not appear at that stage, the officer shall require them to appear personally or by representatives by a certain date to receive payment of compensation awarded. It is only if they fail to appear after such an intimation, and if the officer, after further endeavours to secure their



attendance, cannot so secure their attendance, that amounts due are to be paid to the treasury as revenue deposited payable to persons to whom they are due. It is clear, therefore, that sub-para (V), when read in its proper perspective, is not a separate mode of payment by itself as is contended by the learned counsel for the appellants. **It is a residuary mode of payment after all necessary efforts have been made by the authorities to secure the attendance of the persons entitled to compensation, and it is only after all such methods have failed that, as a last resort, the money is then to be deposited in the treasury.** In any case, such deposit in the treasury is referable only to Section 31(1) and cannot ever be a substitute for deposit before the Reference Court as provided under Section 31(2) of the Land Acquisition Act, which applies in the circumstances mentioned in the aforesaid sub-section. We are, therefore, of the opinion that no distinction between the facts of this case and the facts in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] can be drawn on this ground, and the ratio of Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] will apply on all fours to the facts of the present case.

20. At this juncture, it is necessary to advert to a standing instruction of the Government of NCT of Delhi dated 12-5-2006 in which, pursuant to the directions passed by the High Court of Delhi vide order dated 5-5-2005 in Udai Singh v. Union of India [Udai Singh v. Union of India, WP (C) No. 1161 of 1988, order dated 5-5-2005 (Del)], the Government of NCT of Delhi has fixed various time-frames to complete acquisition proceedings. In so doing, what is of significance is contained in Paras 3 and 4 which are set out hereinbelow:

- “3. Taking over possession of notified land:  
(i) As soon as the award is announced, the Land Acquisition Collector shall



compulsorily issue notice to the interested persons under Section 12 of the LA Act and the service of notice shall be kept in records and shall also submit a demand of the compensation amount to the Land and Building Department with a copy to DDA/intending agency within 30 days of the announcement of the award. The Land and Building Department shall forward the demand to DDA within 7 days. DDA/other agency will release the payment to the L&B Deptt. within 30 days after receipt of the communication from the L&B Department/LAC, as the case may be. **As soon as the money is received by LAC, notice under Section 12(2) shall be issued. LAC will take over the possession of the land and hand over the same to DDA/intending department. The Land Acquisition Collector shall not take possession of the acquired land unless and until the compensation amount is received by him from the intending department.**

(ii) It has been noticed that in a large number of cases, LACs have not taken over the possession of the notified land as possession could not be taken by DDA due to the fact that the land is heavily built up and in some cases, some unauthorised colonies have come up which are under consideration of the Government of India for regularisation. In all such cases, LACs shall prepare a separate list village-wise and shall be submitted to the competent authority for taking a policy decision.

4. Payment of compensation/enhanced compensation:

On receipt of the amount of compensation from DDA/requisitioning agency and on taking the possession of the land, **the Land**



**Acquisition Collector shall send a reference/letter within 15 days to the interested persons for collecting the payment of compensation.** The Land Acquisition Collector will make the payment of the compensation within 60 days to the landowner. In case of any dispute, the Land Acquisition Collector will refer the matter to the ADJ Court under Section 30 immediately after expiry of the 60 days. If interested person is not coming forward for taking compensation amount and payment cannot be made within 60 days then compensation amount should be deposited in the court under Section 31 within next 15 days.”

21. A cursory reading of these paragraphs will show that it is only pursuant to judicial orders that the State wakes up from its slumber. **It is important to note that a notice of award under Section 12(2) to persons interested can only be issued after money is received by the Land Acquisition Collector, and that the said Collector shall not take possession of land unless and until compensation amount is received by him.** Further, actual payment to the landowners must be made latest within a period of 60 days. It is high time that the State realises that persons whose property is expropriated need to be paid immediately so as to rehabilitate themselves. Also, it cannot be forgotten that the amount usually offered by way of an award of a Land Acquisition Collector under the 1894 Act is way below the real market value, which is only awarded and paid years later when the reference proceedings culminate in judgments of the High Courts and of this Court.”

57. Although the decision in *DDA v. Sukhbir Singh* (*supra*) was rendered prior to the decision of the Constitution Bench in *Indore Development Authority (LAPSE-5 J.) v. Manoharlal* (*supra*), the



Constitution Bench had affirmed the view in regard to the extent and mode of payment of compensation as held in the said decision.

58. It is apparent from the Standing Instructions that LAC can tender the compensation only when it is available with him. A notice under Section 12(2) of the LA Act is also required to be issued in terms of the Standing Instructions on the LAC receiving the funds for tendering of the compensation. Although, an award has been held to be an offer for compensation; the communication of the award would be construed as a tender of compensation only if serves as a communication inviting the landowners to receive the compensation.

59. It is also important to refer to paragraph no. 4 of the Standing Instructions dated 12.05.2006, issued by the Government of NCT of Delhi. The same requires the LAC to send a letter to the interested persons for collecting the payment of compensation, within a period of fifteen days of receipt of compensation from the DDA/intending agency.

60. In terms of Paragraph 3 of the Standing Instructions, the LAC is required to compulsorily issue notice to all interested persons under Section 12 of the LA Act immediately on the award being announced. He is also required to submit a demand for the compensation amount to the Land & Building Department with a copy to the DDA/intending agency within thirty days of the announcement of the award. Clearly, if the amount is not available with the LAC, the making of the award would not serve as a tender of the compensation as awarded to the



persons who are present at the time of announcing the award. The DDA or the intending agency is required to release the payment to the L&B Department within a period of thirty days from the date of receipt of communication from the L&B Department. The aforesaid Standing Instruction requires that as soon as money is received by the LAC, a notice under Section 12(2) of the LA Act shall be issued and the LAC would take over possession of the land and handover the same to the DDA/intending department. It is also material to note that the said Standing Instructions<sup>14</sup> requires the LAC would not to take possession of the acquired land unless and until the compensation amount is received by him from the intending department.

61. In *Government of NCT of Delhi & Anr. v. Dayanand & Anr.* (*supra*), the Supreme Court had also specified that issuance of notice under Section 12(2) of the LA Act and calling upon the landowner to collect the compensation would serve as a tender of compensation. Thus, clearly a communication could serve as a tender under Section 31(1) of the Act only if the LAC had the necessary funds.

62. In the present case, there is a dispute as to whether any notice under Section 12(2) of the LA Act was issued in respect of the subject land. Whilst the LAC in its counter affidavit has affirmed that a notice under Section 12(2) of the LA Act was issued to the recorded owners, no document or record has been produced to substantiate the same.

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<sup>14</sup> Standing Instructions dated 12.05.2006 issued by Government of NCT of Delhi: File No. F.1/26/88/L&B/WC



We consider it apposite to set out paragraph 5A of the counter affidavit filed on behalf of the LAC. The same is reproduced below:

“5A. That it is submitted that the physical possession of the lands falling in only Khasra number 29//5/2(2-17) was duly taken on the spot on 14.09.2007 by preparing possession proceeding and was handed over to the DDA on the spot. On 23/08/2007 notice U/s 12(2) was issued to the recorded owner. It is submitted that the compensation however could not be paid as the recorded owner never turned up to claim the compensation and as per the copies of the sale deed, attached with the writ petition, it transpired that the subject land has been sold to the petitioner herein. It is submitted that the petitioner did not get the said land mutated in its name nor the petitioner also approached the office of answering respondent seeking compensation.”

63. A plain reading of the above paragraph suggests that a notice under Section 12(2) of the LA Act was issued in respect of the land, the possession of which was taken over.

64. As noted above, Paragraph 3 of the Standing Instructions dated 12.05.2006 issued by the Government of NCT of Delhi requires that:

“..as soon as the money is received by LAC, notice under Section 12(2) of the LA Act shall be issued. The LAC will take over the possession of the land and hand over the same to DDA/intending department. The Land Acquisition Collector shall not take possession of the acquired land unless and until the compensation amount is received by him from the intending department.”

65. It is material to note that in the present case, the LAC neither had the entire funds for payment of compensation to all land owners



nor did he proceed to take possession of the lands covered under the award.

66. The petitioner has contested the LAC's claim that he had in fact issued any notice to erstwhile owners of the subject land, as claimed by the LAC. This court had adjourned the proceedings more than once so as to enable the learned counsel for the LAC to obtain instructions as to the service of notice on the erstwhile owners of the subject land. However, the LAC did not produce any evidence to substantiate that any such notice was issued or served on the erstwhile owners of the subject land. Paragraph 3(i) of the aforementioned Standing Instructions dated 12.05.2006 requires that notice under Section 12 of the LA Act be issued to all interested persons and the "*service of notice shall be kept in records*". Thus, if a notice had been served under Section 12(2) of the LA Act as required by the LAC, the service of the same was required to be kept on records. However, as noted above, despite opportunity, the LAC has not produced any record to substantiate that he had issued any notice under Section 12(2) of the LA Act and the same was served on the erstwhile owners of the subject land.

67. In view of the above, we are unable to accept that LAC had served notice under Section 12(2) of the LA Act on the erstwhile owners of the subject land or attempted to do so.

68. Thus, even if it is accepted – which we don't – that in the absence of the requisite funds with the LAC, notice of award under



Section 12(2) of the LA Act would serve as a tender of compensation under Section 31 of the LA Act and is required to be construed as paid under Section 24(2) of the 2013 Act; we are unable to accept that any such tender was made in the absence of sufficient material to establish that a notice under Section 12(2) of the LA Act was in fact issued or served on the erstwhile owners of the subject land.

69. In view of the above, we reject the contention that the LAC had tendered any compensation to the petitioner or the recorded owner of the subject land.

#### **CONCLUSION**

70. In view of the above, the petition is allowed as the LAC had failed to establish that it had either tendered compensation for the subject land or taken over possession of the same. Thus, in terms of Section 24(2) of the 2013 Act, the acquisition of the subject land has lapsed.

71. The petition is allowed in the aforesaid terms. Pending applications are also disposed of.

**VIBHU BAKHRU, J**

**SACHIN DATTA, J**

**MARCH 03, 2025**

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