

Before S.Muralidhar & Avneesh Jhingan, JJ.

DINESH AGGARWAL AND ANOTHER—Petitioners

versus

THE STATE OF HARYANA AND OTHERS—Respondents

CWP No.15424 of 2017

November 10, 2020

Constitution of India, 1950—Art. 226—Land Acquisition Act, 1894—Ss. 4, 5 and 6—The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013—S. 24—Petitioners came to Court for quashing the acquisition under the 1894 Act, on the ground that the acquisition proceedings had lapsed on account of non-payment of compensation and on account of possession not having been taken over by the respondents, relying on S.24(2) of the 2013 Act—The Court noticed that compensation in respect of majority of the land holding, to the extent of 77.55% of the land holding had been paid and further Rapat Roznamcha dated 13.08.2002 indicated that possession was taken over—Taking note of the law laid down by the Supreme Court in ‘Indore Development Authority vs. Manoharlal and others’, the Court held that the word “or” used in S.24(2) has to be read as “nor”, meaning thereby that the acquisition would lapse only if both the compensation was not paid and also possession was not taken before the Stipulated date—Civil Writ Petition dismissed.

Held, that the contention raised by learned counsel for the petitioners vis-à-vis Section 24 of the 2013 Act is no longer *res integra*. A Constitution Bench of the Supreme Court in Indore Development Authority v. Manoharlal and others etc., AIR 2020 SC 1496 held that in Section 24(2) of the 2013 Act, the word 'or' used therein is to be read as 'nor'. Meaning thereby that acquisition would not lapse under Section 24 of the 2013 Act even on fulfillment of one condition i.e. taking of possession of the land or payment of compensation. It was further held that possession of the land is taken by drawing the inquest report/memorandum.

(Para 8)

Further held, that admittedly, possession of the land was taken vide rapat roznamcha dated 13.8.2002 and 77.55% of the total compensation has already been paid. The impugned order refusing to

release the land of the petitioners cannot be faulted. The Zonal Committee considered all the recommendations before it and after noting the fact that land of the petitioners affects not only a site of a showroom but 18 meters wide road of Sector 20-A, Faridabad, the representation was rejected.

(Para 9)

Jagdish Manchanda, Advocate, *for the petitioners.*

Ankur Mittal, Additional Advocate General, Haryana.

AVNEESH JHINGAN, J.

(1) The present petition is filed seeking quashing of notifications No. LAC(F)- NTLA-2000/396 dated 12.6.2000 under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') and LAC(F)-2001/NTLA/25 dated 11.6.2001 under Section 6 of the 1894 Act. Further, quashing of order dated 4.5.2017 (Annexure P-17) passed by the Zonal Committee is sought.

(2) A total area of 2.47 acres was acquired vide above mentioned notifications. It included land belonging to the petitioners measuring 1 kanal and 13-1/2 marla in the revenue estate of village Daultabad, District Faridabad. It may be mentioned here that the said land was acquired earlier also but the owners succeeded in the litigation.

(3) In the present petition, the acquisition of June, 2000 is in question. The mother of the petitioners is stated to have purchased the land on 8.11.1989. Mutation No. 366 dated 5.12.1989 was sanctioned in her favour. It is claimed that there is a temple, gaushala and old age home on the land.

(4) The petitioners filed objections under Section 5-A of the 1894 Act on 11.6.2001. Notification under Section 6 read with Section 17 of the 1894 Act was issued. The notifications were challenged by filing CWP No. 14297 of 2001, the petition was admitted and stay regarding dispossession was granted. On 5.8.2015, the writ petition was disposed of, granting liberty to the petitioners to file a comprehensive representation. The respondents were directed to decide the representation in a time bound manner, after providing an opportunity of hearing to the petitioners. The parties were directed to maintain status quo.

(5) The petitioners thereafter made a representation dated

29.9.2015. In order to comply with the directions of this Court, the Zonal Committee held the meeting on 5.10.2016. After considering the recommendations, the representation of the petitioners was rejected. It was held that 77.55% of total awarded compensation has already been paid and possession has been taken vide rapat roznamcha dated 13.8.2002. Further, land of the petitioners affects the site of a showroom and 18 meters wide road in Sector 20-A, Faridabad. The Zonal Committee was intimated that as per lay out plan of Sector 20-A, Faridabad, the development works i.e. Road, water supply, sewer etc. have already been completed on 24 meters wide road but the development work in front of the land in question was incomplete due to encroachment and litigation.

(6) Learned counsel for the petitioners relied upon Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act') to contend that acquisition lapsed as the compensation has not been paid and physical possession of the land is with the petitioners. He states that there is construction on the land and for that he places reliance on the photographs annexed. He concludes his arguments by stating that land of the petitioners was recommended to be released by the Survey Committee, however the Zonal Committee has not considered the said recommendation and erred in rejecting the representation.

(7) Learned counsel for the State submits that acquisition is of the year 2000. Award No. 5 dated 13.8.2002 was passed and possession was handed over to the Estate Officer, HUDA on the date of the Award itself. The compensation in respect of the majority land holding has been paid. In spite of the lay out plan of Sector 20-A, Faridabad, the development work in front of the land in question is incomplete due to encroachment and operation of interim order since 2001.

(8) The contention raised by learned counsel for the petitioners vis-a-vis Section 24 of the 2013 Act is no longer *res integra*. A Constitution Bench of the Supreme Court in ***Indore Development Authority versus Manoharlal and others etc.***¹ held that in Section 24(2) of the 2013 Act, the word 'or' used therein is to be read as 'nor'. Meaning thereby that acquisition would not lapse under Section 24 of the 2013 Act even on fulfilment of one condition i.e. taking of

¹ AIR 2020 SC 1496

possession of the land or payment of compensation. It was further held that possession of the land is taken by drawing the inquest report/memorandum. The relevant portions of paragraph 363 of the judgment are reproduced below:

“363. In view of the aforesaid discussion, we answer the questions as under:

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(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 Act of 2013 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.

(4) The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 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 Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

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The mode of taking possession under the Act of 1894 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 Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

(9) 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 Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded of the computation of Ave years.”

(9) Admittedly, possession of the land was taken vide rapat roznamcha dated 13.8.2002 and 77.55% of the total compensation has already been paid. The impugned order refusing to release the land of the petitioners cannot be faulted. The Zonal Committee considered all the recommendations before it and after noting the fact that land of the petitioners affects not only a site of a showroom but 18 meters wide road of Sector 20-A, Faridabad, the representation was rejected.

(10) Considering the facts and the law laid down by the Supreme Court in *Indore Development Authority's* case (supra), no case is made out for quashing of notifications dated 12.6.2000 and 11.6.2001. The impugned order passed by the Zonal Committee calls for no interference.

(11) The petition is dismissed. The interim order stands vacated.
P. S. Bajwa