

Agra Development Authority, Agra Vs. Anek Singh and Ors.

Civil Appeal No. 2914 of 2022
2022-01-01 | M. R. Shah, J.
Repository ID: F2J-C-1968

Full judgment text

Agra Development Authority, Agra Vs. Anek Singh and Ors.

[Civil Appeal No. 2914 of 2022]

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition No.13927 of 2016 by which the High Court has allowed the said writ petition preferred by the respondents herein original writ petitioners and has held that the acquisition proceedings with respect to the land in question shall be deemed to have lapsed under Subsection (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act 2013'), the Agra Development Authority, Agra has preferred the present appeal.

2. We have heard learned counsel for the respective parties. We have perused and considered the impugned judgment and order passed by the High Court.

3. Before the High Court it was the specific case on behalf of the Agra Development Authority - appellant herein that as such the possession of the land in question was already taken over and even the name of the Authority was mutated in the revenue records. It was also the specific case on behalf of the Authority that possession of the land in question was with them but the original writ petitioners illegally occupied it again. It was also the case on behalf of the Authority that the development works have already been carried out on the land in question and the entire compensation had already been deposited with the Special Land Acquisition Officer.

It was also the case on behalf of the Authority that the original writ petitioners deliberately did not take the compensation for the remaining plot measuring 6 Biswa and 15 Biswansi and therefore, on account of the fault of the writ petitioners, the acquisition proceedings cannot lapse.

However, by the impugned judgment and order the High Court has held and declared that the acquisition proceedings with respect to the land in question shall be deemed to have lapsed under subsection (2) of Section 24 of the Act, 2013 on the ground that the amount of compensation was not actually paid to the land owners. While holding so the High Court has relied upon and considered the decision of this Court in the case of Pune Municipal Corporation and another versus Harakchand Misirimal Solanki and others reported in (2014) 3 SCC 183.

3.1 Thus, while passing the impugned judgment and order the High Court has solely relied upon the decision of this Court in the case of Pune Municipal Corporation (supra) and other decisions in which the decision in the case of Pune Municipal Corporation (supra) was followed. (Para 12 of the impugned judgment and order) However, the decision of this Court in the case of Pune Municipal Corporation (supra) has been subsequently overruled by the Constitution Bench of this Court in the case of Indore Development Authority versus Manoharlal and others, 2020) 8 SCC 129. In paragraph 366 it is observed and held as under:

"366. In view of the aforesaid discussion, we answer the questions as under:

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 11/2014, 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 nondeposit is provided in the proviso to Section 24(2) 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. Nondeposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of nondeposit 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 nonpayment or nondeposit 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).

366.9. 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. 112014. It does not revive stale and timebarred 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.

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 112014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years."

4. In view of the above Constitution Bench decision of this Court in the case of Indore Development Authority (supra) and the earlier decision of this Court in the case of Pune Municipal Corporation (supra) has been specifically overruled by this Court, which has been relied upon by the High Court while passing the impugned judgment and order, the same passed by the High Court is unsustainable and it deserves to be quashed and set aside.

4.1 In view of the decision of this Court in the case of Indore Development Authority (supra) and considering the facts and circumstances narrated hereinabove, it cannot be said that the acquisition proceedings with respect to the land in question is deemed to have lapsed under the provisions of the Act, 2013.

5. In view of the above discussion and for the reasons stated above present appeal succeeds. The impugned judgment and order passed by the High Court is hereby quashed and set aside. Consequently, the writ petition preferred by the original writ petitioner before the High Court stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

Source disclosure: Complete sanitized public judgment text retained for research. Official-primary replacement and later-history closure remain pending.

Disclaimer: This material is for general information and legal research. It is not legal advice. Verify current law, the operative order and later history, and consult a qualified professional before acting.