

Delhi Development Authority Vs. Shiv Kumar and Ors.

Civil Appeal No. 6885 of 2022
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Full judgment text

Delhi Development Authority Vs. Shiv Kumar and Ors.

[Civil Appeal No. 6885 of 2022]

Government of NCT of Delhi Vs. Shiv Kumar and Ors.

[Civil Appeal No. 6886 of 2022]

Government of NCT of Delhi & Anr. Vs. Ombir Singh Sethi and Ors.

[Civil Appeal No. 6888 of 2022]

Government of NCT of Delhi Vs. Vikas and Ors.

[Civil Appeal No. 6887 of 2022]

M.R. Shah, J.

[Civil Appeal Nos.6885/2022 and 6886/2022]

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 24.07.2017 passed by the High Court of Delhi at New Delhi in Writ Petition (Civil) No. 5048/2016, the Delhi Development Authority (for short, 'DDA') and Government of NCT of Delhi have preferred the present appeals. By the impugned judgment and order, the High Court has allowed the said writ petition preferred by the respondents herein and has declared that the acquisition with respect to the land in question has lapsed, in exercise of powers under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act').

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2. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 14.05.2018 passed by the High Court of Delhi at New Delhi in Writ Petition (Civil) No. 4760 of 2016, by which the High Court has allowed the said writ petition preferred by the respondents herein - original writ petitioners and has declared that the acquisition with respect to the land in question has lapsed, in exercise of powers under Section 24(2) of the 2013 Act, the Government of NCT of Delhi through its Secretary has preferred the present appeal.

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3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 10.10.2018 passed by the High Court of Delhi at New Delhi in Writ Petition (Civil) No. 19 of 2018, by which the High Court has allowed the said writ petition preferred by the respondents herein - original writ petitioners and has declared that the acquisition with respect to the land in question has lapsed, in exercise of powers under Section 24(2) of the 2013 Act, the Government of NCT of Delhi has preferred the present appeal.

4. We have heard the learned counsel appearing on behalf of the DDA/Government of NCT of Delhi. None has appeared on behalf of the original writ petitioners.

5. The Constitution Bench of this Court in the case of Indore Development Authority v. Manohar Lal, (2020) 8 SCC 129 has held in paragraph 366 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 1-1.2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provision 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) 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."

6. The impugned judgment(s) and order(s) passed by the High Court are just contrary to the law laid down by this Court in the case of Indore Development Authority v. Manohar Lal (supra).

7. In view of the above, the impugned judgment(s) and order(s) passed by the High Court are unsustainable and the same deserve to be quashed and set aside and are accordingly quashed and set aside.

8. The present appeals are allowed accordingly. No costs.

9. Pending applications, if any, also stand disposed of.

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