

ITEM NO.13

COURT NO.15

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 19412/2017

(Arising out of impugned final judgment and order dated 15-12-2015 in CMWP No. 1146/2014 passed by the High Court Of Judicature At Allahabad)

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY & ORS. Petitioner(s)

VERSUS

CHANDRAWATI @ CHANDRI & ORS.

Respondent(s)

(IA No. 50019/2017 - EXEMPTION FROM FILING C/C OF THE I/JUDGMENT)

Date : 20-09-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Ravindra Kumar, Sr.Adv.
Mr. Binay Kumar Das, AOR
Ms. Priyanka Das, Adv.
Ms. Neha Das, Adv.
Ms. Saloni Sharan, Adv.

For Respondent(s) Mr. V.K.Shukla, Sr.Adv.
Mr. Kumar Dushyant Singh, AOR
Mr Rahul Shukla, Adv.
Ms. Eshita Baruah, Adv.
Ms. Sayantani , Adv.
Ms. Kanchan Dahiya, Adv.

Mr. Tanmaya Agarwal, AOR

UPON hearing the counsel the Court made the following
O R D E R

The basis of judgment impugned in this petition for special leave to appeal is the decision of this Court in the case of Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors., reported in 2014 (3) SCC 183 passed on 24.01.2014.

The subject of dispute in this case is acquisition of certain

land in Noida, Uttar Pradesh and the High Court following the case of Pune Municipal Corporation (supra) applied the beneficial provisions contained in Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in favour of the landowners. The said judgment, however, has been overruled by a Constitution Bench of this Court in the case of Indore Development Authority vs. Manohar Lal & Ors.Etc., reported in 2020(8) SCC 129. In para 366 of the said Report, it has been held by the Constitution Bench:-

"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 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) 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."

Admitted position is that the case of the petitioner(s) does not fulfill the conditions specified in paragraph 366 of the said judgment in the case of Indore Development Authority (supra).

Under these circumstances, the impugned judgment is set aside. The provisions of 1894 Act would apply in the given case. Petitioner's case is that possession of the subject-land was taken on 23rd May 1997 and award was made on 11th January 2000. Thus, the petitioner's stand attracts declaration of law made, inter-alia, in clause 366.3 of the Constitution Bench Judgment and the finding of the High Court on this count cannot be sustained.

We, however, make it clear that any pending application(s) pertaining to the lease back policy of the State of Uttar Pradesh shall be considered in accordance with law.

The special leave petition stands disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR