

GOVT.OF NCT OF DELHI AND ORS

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v.

JAGJIT SINGH AND ORS.

(Civil Appeal No. 2592 of 2015 etc.)

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FEBRUARY 27, 2015

[VIKRAMAJIT SEN AND SHIVA KIRTI SINGH, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 – Lapsing of acquisition – When can be declared – Held: When it is established that award u/s. 11 of Land Acquisition Act, 1894 was passed at least five years before commencement of 2013 Act, possession had not been taken or compensation not paid, the land acquisition proceedings shall be deemed to have lapsed – In the facts of the present case, respondents are entitled to protection u/s. 24(2) of 2013 Act – Land Acquisition Act, 1894 – s.11.

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Radiance Fincap (P) Ltd. v. Union of India & Ors. 2015(1) SCALE 677; Arvind Bansal v. State of Haryana 2015 (3) SCALE 200; Kamail Kaur v. State of Punjab (2015) 1 JT 377; Rajiv Chowdhrie HUF v. Union of India 2015 AIR 614 – relied on.

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Pune Municipal Corporation vs. Harakchand Misirimal Solanki 2014 (1) SCR 783 = (2014) 3 SCC 183, Union of India vs. Shiv Raj (2014) 6 SCC 564 and Bimla Devi vs. State of Haryana (2014) 6 SCC 583- referred to.

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Case Law Reference

2014 (1) SCR 783

referred to

para 3

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| A | (2014) 6 SCC 564 | referred to | para 3 |
| | (2014) 6 SCC 583 | referred to | para 3 |
| | 2015(1) SCALE 677 | relied on | para 4 |
| B | 2015 (3) SCALE 200 | relied on | para 4 |
| | (2015) 1 JT 377 | relied on | para 4 |
| | 2015 AIR 614 | relied on | para 4 |

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2592 of 2015

- D From the Judgment and Order dated 27.05.2014 of the High Court of Delhi at New Delhi in Writ Petition (C) No. 2806 of 2004

WITH

- E Civil Appeal Nos. 2586, 2587, 2588, 2589, 2590, 2591 and 2593 of 2015

- F Amrendra Sharan, Rachana Srivastava, Utkarsh Sharma, Viresh B. Saharya, V. B. Saharya (For Saharya & Co.) for the Appellants.

Ravinder Sethi, Rajeev Ghawana, Gautam Narayan, E. C. Agrawala for the Respondents.

- G The Judgment of the Court was delivered by

VIKRAMAJIT SEN, J. 1. Any determination under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and

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Resettlement Act, 2013, must proceed sequentially. First, the A
factum of an Award under Section 11 of the Land Acquisition
Act, 1894, must be clearly established. The said Award must
predate the commencement of the Act, i.e., 01.01.2014., by
at least five years (or more), i.e., the Award must have been B
passed on or before 01.01.2009. This having been
established, if possession is found to not have been taken,
or compensation not paid, then the proceedings shall be
deemed to have lapsed. Thereafter, the appropriate C
Government, if it so chooses, may reinitiate acquisition
proceedings in respect of the same land, but under the 2013
Act's regime.

2. Each and every deeming operation under Section 24(2)
requires unambiguously and unvaryingly that a factual conclusion D
be drawn about the passing of the Award under Section 11, of
the 1894 Act, on or before 01.01.2009; further, the absence of
compensation having been paid or the absence of possession
having been taken by the acquirer, either of these, must be a
proven point of fact, as a threshold requirement attracting the lapse. E

3. This Court has in a number of decisions including Pune
Municipal Corporation vs. Harakchand Misirimal Solanki (2014)
3 SCC 183, Union of India vs. Shiv Raj (2014) 6 SCC 564 and
Bimla Devi vs. State of Haryana (2014) 6 SCC 583, clarified F
the manner in which the new provision is to be interpreted viz.,
that the acquisition lapses.

4. It has been contended in other Appeals before this Court that
the Right to Fair Compensation and Transparency in Land G
Acquisition, Rehabilitation and Settlement Ordinance, 2014,
issued on 31st December, 2014, clarifies that if possession of
the acquired land has not been taken owing to interim Orders
passed in this regard the acquisition may be protected and
insulated from the purpose and intendment of Section 24 of the H

- A 2013 Act. This Court has now clarified in *Radiance Fincap (P) Ltd. v. Union of India & Ors.* [Civil Appeal No. 4283 of 2011 decided on 12.01.2015] that the Ordinance shall have prospective operation only. This Court therein held as under:
- B “The right conferred to the land holders/owners of the acquired land under Section 24(2) of the Act is the statutory right and, therefore, the said right cannot be taken away by an Ordinance by inserting proviso to the abovesaid sub-Section without giving retrospective effect to the same.”
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- The legal position has been subsequently reiterated by this Court in *Arvind Bansal v. State of Haryana* (Civil Appeal Nos.417-418 of 2015 decided on 13.01.2015) and *Karnail Kaur v. State of Punjab* [Civil Appeal No. 7424 of 2013 decided on 22.01.2015]. We are in respectful agreement with all these decisions. In the event that there is no ambiguity that (a) the Award is over five years old and (b) that compensation has not been paid or (c) that possession of the land has not been taken, the acquisition is liable to be quashed. In *Rajiv Chowdhrie HUF v. Union of India* [Civil Appeal No.8786 of 2013, decided on 06.02.2015], noting that the physical possession of the land had not been taken by the Respondents, nor compensation paid by the Respondents to the Appellant in respect whereof the Award was passed on 6.08.2007, the acquisition proceedings had been declared as having lapsed. The same position was arrived at in *Rajiv Chowdhrie HUF v. Union of India* in Civil Appeal No.8785 of 2013 decided on 10.12.2014 by a different Bench of this Court.
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5. These Appeals assail one Judgment and an Order [passed in light of that Judgment] of a Division Bench of the Delhi High Court, which had allowed the Writ Petitions before it, and declared that the acquisitions had lapsed for the reason that
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the possession had not been taken and compensation, too, A
not paid. This is sufficient ground for granting the protection
envisaged by Section 24(2) of the Land Acquisition Act, 2013.

6. The Appeals are dismissed in the above terms.

Kalpana K. Tripathy
dismissed.

Appeals

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