Judgment reserved on 19.02.2021
delivered on 12.03.2021
REPORTABLE

Case :- WRIT - C No. - 26413 of 2020

Petitioner :- Smt. Kalawati Devi
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Anupam Kulshreshtha, Arpit Agarwal
Counsel for Respondent :- C.S.C.,Nipun Singh, Sunil Kumar Misra

Hon'ble Mahesh Chandra Tripathi, J.
Hon'ble Sanjay Kumar Pachori, J.

(Delivered by Hon. Mahesh Chandra Tripathi, J.)

1. Heard Shri Anupam Kulshreshtha and Shri Arpit Agarwal, learned counsel for the petitioner; Shri Sanjay Kumar Singh, learned Addl. Chief Standing Counsel along with Shri Devesh Vikram, learned Standing Counsel as well as Shri Apurva Hajela, learned Standing Counsel for the State respondents and Shri Nipun Singh, learned counsel for respondent nos.2 to 4.

2. Present writ petition has been preferred for following reliefs:-

> *"a) To issue a writ, order or direction in the nature of mandamus directing the respondents to release the land of plot no.424/1 area 1 bigha & 10 biswa and plot no.424/2 area 5 biswa, situated in Village Jhunsi Kohna, Pargana Jhunsi, Tehsil Phoolpur, Distt. Prayagraj from the acquisition as the acquisition proceedings, initiated vide notifications dated 8.3.1979 and 27.10.1980 under Sections 28 and 32 of the Uttar Pradesh Avas Evam Vikas Praishad Adhiniyam, 1965 stand lapsed in view of the provisions of Section 24 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Act No.30 of 2013);*
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> *b) To issue a writ, order or direction in the nature of mandamus directing the respondents to not to dispossess the petitioner from the land in dispute, namely; plot no.424/1 area 1 bigha & 10 biswa and plot no.424/2 area 5 biswa, situated in Village Jhunsi Kohna, Pargana Jhunsi, Tehsil Phoolpur Distt. Prayagraj in view of the fact that neither the compensation was paid nor possession was taken pursuant to the proceedings of acquisition, initiated vide notifications dated 8.3.1979/14.4.1979 and 27.10.1980/22.11.1980 under Sections 28 and 32 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 stand lapsed;*
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> *c) To issue a writ, order or direction in the nature of mandamus directing the respondents to decide the representation of the petitioner dated 3.9.2007 (Annexure No.8 to the writ petition) and reminders dated 27.10.2007, 2.2.2008, 26.11.2008, 31.7.2013, 12.3.2013, 12.8.2013, 14.10.2013, 19.4.2017 and 4.7.2019 (Annexures No.9 to 16 of the writ petition) within a shortest possible time frame which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case....."*

3. The record in question reflects that the petitioner claims to be

Bhumidhar with transferable rights of plot no.424/1 area 1 bigha & 10 biswa and plot no.424/2 area 5 biswa situated in Village Jhunsi Kohna, Pargana Jhunsi, Tehsil Phoolpur Distt. Prayagraj[1]. A notification under Section 28 of the **Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965**[2] was issued on 8.3.1979, which was published in the official gazette on 14.4.1979. The notification reflects that the **Uttar Pradesh Avas Evam Vikas Parishad**[3] has framed a scheme in the name of **"Jhunsi Bhoomi Vikas Evam Grih Sthan Yojna-2, Allahabad**[4]**"** for solving the housing problems in the city of Allahabad (now Prayagraj). Thereafter, a notice under Section 29 of the Adhiniyam, 1965 was issued. It is claimed that the petitioner along with her co-tenure holder Smt. Shanti Devi daughter of Girdhari Lal filed objection on 2.5.1979. A notification under Section 32 of the Adhiniyam, 1965 was published in the Official Gazette on 29.11.1980. It is claimed that inspite of the objection dated 2.5.1979 finally the publication under Section 32 of the Adhiniyam, 1965 was issued. It is also claimed that no opportunity or notice was ever accorded to the petitioner under Section 9 of the **Land Acquisition, 1894**[5]**.** Therefore, the petitioner had no information relating to determination of the compensation under the LA Act. It is also reflected from the record that the petitioner had earlier approached this Court by preferring Writ Petition No.18480 of 1987 with following reliefs:-

> *"(i) To issue a suitable writ, order or direction in the nature of certiorari quashing the impugned notice (Annexure '2' to the writ petition).*
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> *(ii) to issue a suitable writ, order or direction in the nature of mandamus restraining the respondents from raising any constructions on plot no.424 without demarcating the area of the same,particularly on plot nos.424/1 and 424/2, Village Jhunsi, Kohna, Pargana Jhunsi, Tehsil Phoolpur, District Allahabad belonging to the petitioner besides dispossessing the petitioner from the same or from demolishing the houses and the temples of the petitioner standing thereon....."*

4. In the said matter initially an interim order was passed on 15.2.1992 restraining the respondents from carrying out any demolition

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1. the land in dispute
2. the Adhiniyam, 1965
3. the Parishad
4. the Scheme
5. the L.A. Act

of the disputed constructions till 17.2.1992 and also restrained the petitioner to make any construction over the disputed property. Finally the writ petition was dismissed vide order dated 8.8.2007, which reads as under:-

> *"Herd Sri A.P. Tiwari and S.C. Verma learned counsel for the petitioner and Sri Vivek Saran, learned counsel for the respondents.*
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> *By this petition, the petitioner has prayed for quashing the notice contained in Annexure-2 of the writ petition purporting to be under Section 29 of U.P. Avas Vikas Adhiniyam 1965 inviting objections against the proposal of notification dated 8.3.1979 under Section 28 of the Act. Thereafter, a declaration has been made under Section 32 of the Act on 29.11.1980 as stated in para 11 of the counter affidavit filed on behalf of the respondents. The petitioner cannot challenge the proposal of acquisition under Section 28 including the notice inviting objection issued to her. No further relief regarding declaration under Section 32 of the At has been sought for. However, since the only dispossession of the petitioner has been stayed by this Court on 12.10.1987 and land acquisition proceedings were not stayed, therefore, the land acquisition proceedings must have been culminated/ formalised and award must have been passed. In such facts and circumstances of the case, once the award has been made, it is not open for the petitioner to challenge the notification under Section 28 of the U.P. Avas Vikas Adhiniyam 1965 and impugned notice which is analogous provision to Section 4 of Land Acquisition Act which was only proposal for said acquisition. In view of these facts and circumstances of the case, we are not inclined to interfere in the matter.*
>
> *Accordingly, the writ petition is dismissed. However, dismissal of writ petition will not preclude the petitioner to approach the appropriate authority for redressal of her grievances."*

5. In the aforementioned proceeding detailed counter affidavit was filed by the respondents indicating in para 16 that notice under Section 9 (1) and 9 (3) of the LA Act was issued and inspite of sufficient notice the petitioner did not submit any claim/ compensation. It was also averred that other tenure holders, those have filed claims, the adequate compensation was awarded by the Special Land Acquisition Officer (SLAO).

6. Present writ petition has been preferred precisely on the ground that neither the possession of the land has been taken nor compensation has been paid, as such, the acquisition proceeding will lapse in view of the provisions of Section 24 (2) of the **Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013**[6]**.**

7. Shri Anupam Kulshreshtha, learned counsel for the petitioner has

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6. the Act, 2013

vehemently contended that the provisions of Section 24 (2) of the Act, 2013 would apply to the acquisition undertaken under the Adhiniyam, 1965 in view of the provisions of Section 55 of the Adhiniyam, 1965. He has submitted that as neither the possession has been taken nor the compensation has been paid, therefore, the acquisition would lapse. He has submitted that pursuant to notification dated 8.3.1979, 14.4.1979 and 27.10.1980 the possession of land in dispute has not been taken and infact the petitioner is still in possession over the disputed land. The perusal of the award dated 22.9.1986 also does not reflect/ indicate that the award qua the petitioner's land was ever prepared. The award dated 22.9.1986 was prepared in respect of land admeasuring 44 bigha 3 biswa & 12 biswansi out of the total area of 56 bigha, 6 biswa & 12 biswansi. He has submitted that the burden lies on the respondents to prove that the award qua the land in dispute was made by the Collector, Kanpur Nagar dated 22.9.1986 vide Case No.1.

8. He has further submitted that the alleged possession dated 27.6.1986 is also unsustainable in view of the principles settled by Hon'ble Apex Court in **Banda Development Authority, Banda v. Motilal Agrawal & Ors**[7]. The possession memo must be signed by the owner of the land and two independent witnesses if crop or constructions are existing and merely going on spot by the authority concerned would not suffice for justifying the possession. The respondents have not prepared any memo of possession and merely showing that physical possession was taken is not sufficient. He lastly submitted that in view of the provisions of Section 24 (2) of the Act, 2013 the proceeding of acquisition initiated under Section 28 of the Adhiniyam, 1965 by issuing notifications dated 8.3.1979 and 27.10.1980 under Section 28 and 32 respectively would stand lapsed.

9. Per contra, Shri Nipun Singh, learned counsel for the Parishad and Shri Sanjay Kumar Singh, learned Addl. Chief Standing Counsel appearing for the State respondents have, however, contended that the

7. (2011) 5 SCC 394

provisions of Section 24 (2) of the Act, 2013 would not apply to the acquisition made under the provisions of Adhiniyam, 1965. The said issue is no longer res integra in view of the Division Bench judgment of this Court in **Atul Sharma & Ors. v. State of U.P. &** Ors[8]**.,** and **Jagbeer Singh & Ors. v. State of U.P. & Ors**[9]. Shri Nipun Singh, learned counsel for the Parishad has also placed reliance on the averments contained in para 5 and 6 of the counter affidavit filed on behalf of Parishad dated 30.01.2021, wherein, a categorical stand has been taken that regarding land in dispute being Khasra No.424/1 the respondents had taken physical possession way back, and to this effect the possession certificate had also been given by the SLAO to the Parishad. The possession certificate dated 27.6.1986 is also brought on record as Annexure No.SCA-2. He has submitted that the award of the entire scheme has been made by the SLAO on 22.9.1986 and the adequate compensation had also been deposited in the account of the SLAO on 29.1.1982, 5.3.1984, 23.10.1984, 11.11.1985 and 23.9.1988. It was also contended that inspite of information to the concerned land owners, the reason best known to the petitioner, she did not lift her compensation, therefore, at this belated stage it cannot be claimed that neither the possession has been taken nor the award has been made. The entire compensation has been deposited, therefore, present writ petition is liable to be dismissed on the ground of delay and laches. Lastly it has been contended that challenge to the acquisition at this stage cannot sustain in view of the order dated 8.8.2007 passed by the Division Bench of this Court in earlier round of litigation and, therefore, the writ petition is liable to be dismissed with heavy cost.

10. We have heard rival submissions, perused the record and respectfully considered the judgments cited at Bar.

11. It is admitted by the parties that the proceedings for acquisition of land were initiated by notification under Section 28 of the Adhiniyam,

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8. L. A. No. 159 of 2014
9. 2018 (2) AWC 1639

1965 on 8.3.1979. This was followed by declaration made under Section 32 of the Adhiniyam, 1965 on 27.10.1980. The award was made on 22.9.1986. The possession memo brought on record indicates that the possession was taken over on 27.6.1986. The entire claim has been set up on the pretext that since neither the possession has been taken nor compensation has been paid, therefore, the acquisition proceeding would lapse in view of Section 24 (2) of the Act, 2013. In this backdrop, it is necessary to first examine as to whether the provisions of Section 24 (2) of the Act, 2013 would apply to the acquisition made under the Adhiniyam, 1965. The said issue is no longer res integra. The authoritative pronouncement in this regard has been made by the Division Bench of this Court in **Atul Sharma & Ors.** (Supra) and **Jagbeer Singh & Ors.** (Supra). The operative portion of the judgment in Atul Sharma & Ors. (Supra) is quoted as under:-

> *".....The aforesaid observations have been later on reproduced, considered and explained by the Apex Court in at least three decisions which deserve mention, the leading being Ch. Tika Ramji and Ors etc. vs. The State of Uttar Pradesh and Ors. (AIR 1956 Supreme Court 676), paragraphs 30 to 39. The second decision is in the case of the State of T.N. and Anr. vs. Adhiyaman Educational & Research Institute and Ors,(1995 (4) SCC 104) paragraphs 15 to 18 and the third decision is in the case of Thirumuruga Kirupananda Variyarthavathiru Sundara Swamigalme vs. Stae of Tamil Nadu and Ors. (1996 Vol. 3 SCC 15) paragraphs 19, 20, 23 to 26. There are many more decisions to the same effect and it is not necessary for us to burden this judgment with anything further.*
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> *The basic principle that can be culled out from a perusal of these judgments is that the test of repugnancy is whether the law made by Parliament and that by the State Legislature occupy the same field and whether the Parliament intended to lay down a exhaustive code in respect of the subject matter replacing the act of the State Legislature.*
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> ***The non-inclusion of the 1965 Act in the 4th Schedule to the 2013 Act in terms of section 105 thereof does not necessarily mean that the 2013 Act was extended to be applied in acquisitions under the 1965 Act. The intent of the 2013 Act was to eclipse the anomalies and improve the conditions of payment of compensation to acquisitions made under the Land Acquisition Act, 1894 only. Since the 1894 Act has been repealed, and the 1965 Act continues to exist without any amendment there does not arise any issue of repugnancy or inconsistency.*** *This has to be viewed from another angle. The benefit of deemed lapse is by a fiction under a specific statute. A provision of fiction has to be strictly construed and it cannot be impliedly treated to be incorporated unless the 1965 Act also contemplates any such fiction. It is for this reason that an amendment will have to be expressly brought about in the 1965 Act if the provisions of 2013 Act have to be applied and not otherwise in relation to the procedure of acquisition. A provision of deemed lapse cannot be read into by way of interpretation into 1965 Act without specific amendment therein.*
>
> *The other question is can this be construed the other way around by presuming an implied applicability of the 2013 Act merely because section 55 of the 1965 Act incorporates the procedure of acquisition under the 1894 Act. We may put on record that the issue of lapse of an acquisition proceeding under section 11-A of*

the 1894 Act was specifically held to be not applicable in acquisitions under the 1965 Act in Jainul Islam's case. The same situation exists here where the issue of deemed lapse under section 24(2) is sought to be introduced and read into the 1965 Act. We cannot accept this proposition inasmuch as section 55 of the 1965 Act has not been amended so as to include any provision relating to the acquisition resulting in any lapse as contained in the 2013 Act. Thus, such applicability cannot be implied when it has not been incorporated in the 1965 Act.

There is yet another reason namely the provisions of 2013 Act as contained in section 24(2) are not inconsistent with any provision of the State Act that exists from before. Conversely the State Act also does not include any provision that may said to be inconsistent or in conflict with 2013 Act. The non-inclusion of the benefit of the clause of deemed lapse does not make the enactment inconsistent, conflicting or repugnant.

To understand this recourse can be had to the provisions quoted herein above in the 2013 Act that clearly provide that the 2013 Act and its provisions are in addition and not in derogation of any law for the time being in force. Consequently the States have been left to enact any law that may provide for any better facilities relating to acquisition over and above that has been provided for in the 2013 Act. This, therefore, also removes the elements of discrimination or arbitrariness. It is open to the State to provide better facility or benefit in matters of acquisition by bringing about any amendment in the 1965 Act.

Coming to the last limb of this argument namely the resultant discrimination in relation to acquisitions having been made prior to 01.01.2014, we may point out that when there is a legislation by incorporation then it is only that part of legislation which stands incorporated and continues to exist and not a new legislation which refers to the proceedings under the old legislation. The reason is what can be incorporated is that which exists. It is for this reason that section 55 of the 1965 Act incorporated the then existing provisions of 1894 Act. The 1894 Act has now been repealed and is not in existence. Thus, it is only the provisions of 1894 Act that have been incorporated in section 55 of the 1965 Act that will continue to exist for that purpose only to that limited extent. The same does not within its fold draw the elements of the 2013 Act which has never been intended to be incorporated or included in the 1965 Act or vice-versa. Thus, these are two sets of acquisitions under the different Acts and the question of applying Article 14 to invoke discrimination does not arise.

However, there is another shade of this discrimination which has to be avoided keeping in view the ratio of the Jainul Islam's case. To that extent we hold that if any acquisition is made by the authority under the 1965 Act after 01.01.2014 then it's actions or the assessment of compensation cannot be less than what has been contemplated in 2013 Act. The determination of the quantum of compensation, therefore, on principles will have to be applied in relation to acquisitions made by the Awas Vikas Parishad under the 1965 Act after 01.01.2014 as per the 2013 Act.

Consequently for all the reasons aforesaid the relief claimed in the writ petition with regard to the lapse of the proceedings cannot be availed of and the petition is accordingly dismissed."

12. For ready reference, the operative portion of the judgment in **Jagbeer Singh & Ors.,** (Supra) is quoted as under:-

".....The Fourth Schedule contained in the 2013 Act makes reference to 13 Acts but does not make reference to the Parishad Act.

This issue was also considered by a Division Bench of this Court in Atul Sharma. It was sought to be contended that Section 24(2) of the 2013 Act would apply to acquisitions made under the Parishad Act. This contention was repelled by the Division Bench holding that the absence of exclusion of the applicability of the 2013 Act would not necessarily mean that the 2013 Act would apply to the acquisitions made under the Parishad Act. The observations of the Division Bench are as follows:

"The non-inclusion of the 1965 Act in the 4th Schedule to the 2013 Act in terms of section 105 thereof does not necessarily mean that the 2013 Act was extended to be applied in acquisitions under the 1965 Act. The intent of the 2013 Act was to eclipse the anomalies and improve the conditions of payment of compensation to acquisitions made under the Land Acquisition Act, 1894 only. Since the 1894 Act has been repealed, and the 1965 Act continues to exist without any amendment there does not arise any issue of repugnancy or inconsistency. This has to be viewed from another angle. The benefit of deemed lapse is by a fiction under a specific statute. A provision of fiction has to be strictly construed and it cannot be impliedly treated to be incorporated unless the 1965 Act also contemplates any such fiction. It is for this reason that an amendment will have to be expressly brought about in the 1965 Act if the provisions of 2013 Act have to be applied and not otherwise in relation to the procedure of acquisition. A provision of deemed lapse cannot be read into by way of interpretation into 1965 Act without specific amendment therein.

(emphasis supplied)

In this connection, the Division Bench also observed that since Section 11-A of the Acquisition Act was held not to be applicable to acquisitions made under the Parishad Act, the same position would exist in regard to Section 24(2) of the 2013 Act and the observations are:

"The other question is can this be construed the other way around by presuming an implied applicability of the 2013 Act merely because section 55 of the 1965 Act incorporates the procedure of acquisition under the 1894 Act. We may put on record that the issue of lapse of an acquisition proceeding under section 11-A of the 1894 Act was specifically held to be not applicable in acquisitions under the 1965 Act in Jainul Islam's case. The same situation exists here where the issue of deemed lapse under section 24(2) is sought to be introduced and read into the 1965 Act. We cannot accept this proposition inasmuch as section 55 of the 1965 Act has not been amended so as to include any provision relating to the acquisition resulting in any lapse as contained in the 2013 Act. Thus, such applicability cannot be implied when it has not been incorporated in the 1965 Act."

(emphasis supplied)

The decisions referred to by the learned counsel for the petitioners relating to lapsing of acquisition under Section 24(2) of the 2013 Act when land was acquired under the provisions of the Acquisition Act would, therefore, not come to the aid of the petitioners.

Thus, for all the reasons stated above, it is not possible to accept the contention of the learned counsel for the petitioners that Section 24(2) of the 2013 Act would be applicable to the acquisitions made under the Parishad Act.

In the end, learned counsel for the petitioners submitted that though the award was made way back on 30 December 2013, compensation has not been paid to the petitioners who are the subsequent purchaser of the land that was acquired. It is for the petitioners to file an application before the Special Land Acquisition Officer for payment of the compensation and the Court has no reason to doubt that in case such an application is filed, it shall be decided in accordance with law after hearing the parties concerned.

The writ petition is, accordingly, dismissed with the aforesaid observations."

13. Hon'ble the Division Bench while considering the case of **Atul Sharma & Ors.** (Supra) has observed that the non-inclusion of the Adhiniyam, 1965 in the 4th Schedule to the Act, 2013 in terms of section 105 thereof does not necessarily mean that the Act, 2013 was extended to be applied in acquisitions under the Adhiniyam, 1965. The intent of the 2013 Act was to eclipse the anomalies and improve the conditions of

payment of compensation to acquisitions made under the L.A. Act only. It was also observed that since the L.A. Act has been repealed, and the Adhiniyam, 1965 continues to exist without any amendment there does not arise any issue of repugnancy or inconsistency. The benefit of deemed lapse is by a fiction under a specific statute. A provision of fiction has to be strictly construed and it cannot be impliedly treated to be incorporated unless the Adhiniyam, 1965 also contemplates any such fiction. It is for this reason that an amendment will have to be expressly brought about in the Adhiniyam, 1965 if the provisions of Act, 2013 have to be applied and not otherwise in relation to the procedure of acquisition. It was opined *"a provision of deemed lapse cannot be read into by way of interpretation into 1965 Act without specific amendment therein."*

14. The decisions referred to by learned counsel for the petitioner relating to lapsing of acquisition under Section 24 (2) of the Act, 2013 when the land was acquired under the provisions of the L.A. Act would, therefore, not come to the aid of the petitioner. In view of above, it is not possible to accept the contention of learned counsel for the petitioner that Section 24 (2) of the Act, 2013 would be applicable to the acquisitions made under the Adhiniyam, 1965.

15. A Constitution Bench of Hon'ble Apex Court in **Indore Development Authority v. Manoharlal & Ors**[10]**.,** has considered the correct interpretation of Section 24 of the Act, 2013 and finally answered as under:-

> *"359. We are of the considered opinion that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the Act of 2013. The provisions of Section 24 do not invalidate the judgments and orders of the Court, where rights and claims have been lost and negatived. There is no revival of the barred claims by operation of law. Thus, stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In exceptional cases, when in fact, the payment has not been made, but possession has been taken, the remedy lies elsewhere if the case is not covered by the proviso. It is the Court to consider it independently not under section 24(2) of the Act of 2013.*
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> *360. It was submitted that Section 101 provides for return of unutilized land under the Act of 2013.Section 101 provides that in case land is not utilized for five years*

10. SLP (C) Nos. 9036 – 9038 of 2016 dt. 6.3.2020

from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government. Section 101 reads as under:

"101. Return of unutilized land.-- When any land, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Explanation.-- For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government-owned vacant, abandoned, unutilized acquired lands and tax-delinquent properties into productive use."

361. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilized land.Section 101 cannot be said to be applicable to an acquisition made under the Act of 1894. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with respect to all lands acquired under the Act of 2013 as the expression used in the opening part is "When any land, acquired under this Act remains unutilized". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions of Section 101cannot be applied to the acquisitions made under the Act of 1894. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the Act of 2013. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilized under Section 24(2).

362. Resultantly, the decision rendered in Pune Municipal Corporation & Anr. (supra) is hereby overruled and all other decisions in which Pune Municipal Corporation (supra) has been followed, are also overruled. The decision in Shree Balaji Nagar Residential Association (supra) cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra (Dead) through L.Rs. and Ors., (supra), the aspect with respect to the proviso to Section 24(2) and whether 'or' has to be read as 'nor' or as 'and' was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.

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

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 Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

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 Act of 2013 under the Act of 1894 as if it has not been repealed.

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 34of 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.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, 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). Land owners 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 Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part ofSection 24(1)(b).

7. 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 underSection 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).

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 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 in the computation of five years.

9. Section 24(2) of the Act of 2013 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 Act of 2013, 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.

Let the matters be placed before appropriate Bench for consideration on merits."

16. In the present matter admittedly notice under Section 29 of the Adhiniyam, 1965 was challenged in Writ Petition No.18480 of 1987 in which no doubt initially the respondents were restrained to carry out demolition. But eventually the writ petition was dismissed with observation that the acquisition proceedings were not stayed by the Court, therefore, the land acquisition proceeding must have been culminated/ formalised and the award must have been passed. In the circumstances, once the award has been made, it was not open for the petitioner to challenge the notification under Section 28 of the Adhiniyam, 1965 and the impugned notice which is analogous provisions to Section 4 of the LA Act, which was only proposal for said acquisition. In such circumstances, so far as challenge to the acquisition and lapsing of the proceeding under the Adhiniyam, 1965 would be impermissible at this belated stage. Even though while dismissing the writ petition leave

was accorded to the petitioner to approach the appropriate authority for redressal of her grievance, since passing of the order dated 8.8.2007 at this belated stage present writ petition has been preferred with aforesaid relief.

17. In **Urban Development Trust, Udaipur v. Bheru Lal & Ors**[11]., the Hon'ble Supreme Court has considered the maintainability of the writ petition against the land acquisition proceeding since the petition had been preferred challenging the land acquisition proceeding after two years of publication under Section 6 (1) of the L.A. Act and it was held that the same would not be maintainable on the ground of delay and laches. The relevant portion of the judgment is quoted as under:-

> *".....It is apparent that the Notification under Section 4 was first published in the official gazette in June 1992. Thereafter substance was published in November 1992 at the conspicuous places and subsequently it was published in the local newspapers. Considering this sequence of publication, even if there is some delay, it would not mean that on this ground the land acquisition proceedings under Section 4 require to be set aside. Similar view is expressed by this Court in State of Haryana and another v. Raghubir Dayal and others [(1995) 1 SCC 133 para 7].*
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> *Further, learned counsel for the appellant rightly submitted that on the ground of delay and laches in filing the writ petitions, the Court ought to have dismissed the same. In the present case, as stated above, the Notification under section 6 was published in the Official Gazette on 24.5.1994. The writ petitions are virtually filed after two years. In a case where land is needed for a public purpose, that too for a scheme framed under the Urban Development Act, the Court ought to have taken care in not entertaining the same on the ground of delay as it is likely to cause serious prejudice to the persons for whose benefit the Housing Scheme is framed under the Urban Development Act and also in having planned development of the area. The law on this point is well settled. [Re. Reliance Petroleum Ltd. v. Zaver Chand Popatlal Sumaria and others [(1996) 4 SCC 579] and Hari Singh and others v. State of U.P. and others [(1984) 3 SCR 417].*
>
> *In the result, the appeals filed by the Urban Improvement Trust are allowed. The impugned judgment and order passed by the High Court in D.B. Civil Special Appeal Nos.270-277/97 etc. allowing the appeals and quashing the land acquisition proceedings is set aside. The judgment and order passed by the learned Single Judge is restored.*
>
> *Civil Appeal No.5263/2001 filed by J.K. Udaipur Udyog Ltd. is also dismissed.*
>
> *There shall be no order as to costs."*

18. In **State of U.P. v. Smt. Pista Devi & Ors**[12]., Hon'ble the Apex Court has also observed that where large tracts of land is acquired, few cannot challenge the acquisition proceeding. The operative portion of the judgment is quoted as under:-

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11. 2003 (1) AWC 73 (SC)
12. AIR 1986 SC 2025

".....It is no doubt true that in the notification issued under section 4 of the Act while exempting the application of section 5-A of the Act to the proceedings, the State Government had stated that the land in question was arable land and it had not specifically referred to sub section (1-A) of section 17 of the Act under which it could take possession of land other than waste and arable land by applying the urgency clause. The mere omission to refer expressly section 17(1-A) of the Act in the notification cannot be considered to be fatal in this case as long as the Government had the power in that sub-section to take lands other than waste and arable lands also by invoking the urgency clause. Whenever power under section 17(1) is invoked the Government automatically becomes entitled to take possession of land other than waste and arable lands by virtue of sub-section (1-A) of section 17without further declaration where the acquisition is for sanitary improvement or planned development. In the present case the acquisition is for planned development. We do not, therefore find any substance in the above contention.

It is, however, argued by the learned counsel for the respondents that many of the persons from whom lands have been acquired are also persons without houses or shop sites and if they are to be thrown out of their land they would be exposed to serious prejudice. Since the land is being acquired for providing residential accommodation to the people of Meerut those who are being expropriated on account of the acquisition proceedings would also be eligible for some relief at the hands of the Meerut Development Authority. We may at this stage refer to the provision contained in section 21(2) of the Delhi Development Act, 1957 which reads as follows:

"21(2). The powers of the Authority or, as the case may be, the local authority concerned with respect to the disposal of land under sub-section (1) shall be so exercised as to secure, so far as practicable, that persons who are living or carrying on business or other activities on the land shall, if they desire to obtain accommodation on land belonging to the Authority or the local authority concerned and are willing to comply with any requirements of the Authority or the local authority concerned as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them:

Provided that where the Authority or the local authority concerned proposes to dispose of by sale any land without any development having been undertaken or carried out thereon, it shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it subject to such requirements as to its develop- ment and use as the Authority or the local authority concerned may think fit to impose."

Although the said section is not in terms applicable to the pre sent acquisition proceedings, we are of the view that the above provision in the Delhi Development Act contains a wholesome principle which should be followed by all Development Authorities throughout the country when they acquire large tracts of land for the purposes of land development in urban areas. We hope and trust that the Meerut Development Authority, for whose benefit the land in question has been acquired, will as far as practicable provide a house site or shop site of reasonable size on reasonable terms to each of the expropriated persons who have no houses or shop buildings in the urban area in question.

Having regard to what we have stated above, we are of the view that the judgment of the High Court cannot be sustained and it is liable to be set aside. We accordingly allow these appeals, set aside the judgment of the High Court and dismiss the Writ Petitions filed by the respondents in the High Court. There is no order as to costs."

19. Therefore, in case under the Scheme some portion of land is not utilised, on this ground the land cannot be released. No provision under the Adhiniyam, 1965 has been placed to us so as to warrant to decide the said issue.

20. In **State of Rajasthan & Ors. v. D.R. Laxmi & Ors**[13]**.,** it has been held that even a void proceeding need not be set at naught in all events. If parties has not approached the Court well within reasonable time, judicial review is not permissible at belated stage. For ready reference, the operative portion of the judgment is quoted as under:-

> *".....The order or action, if ultra vires the power, it becomes void and it does not confer any right. But the action need not necessarily set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances. It is seen that the acquisition has become final and not only possession had already been taken but reference was also sought for ; the award of the Court under Section 26 enhancing the compensation was accepted. The order of the appellate court had also become final. The order of the appellate court had also become final. Under those circumstances, the acquisition proceedings having become final and the compensation determined also having become final, the High Court was highly unjustified in interfering with and in quashing the notification under Section 4 [1] and declaration under Section 6.*
>
> *It is true that the respondent had offered to accept the compensation by shifting the date of the notification by 4 to 5 years from the date of the notification under Section 4(1). For this view, reliance was placed by Shri Sachar on the judgment of this Court in Ujjain Vikas Pradhikaran v. Raj Kumar Johri & Ors. [(1992) 1 SCC 328] where this Court had allowed the shifting of the date for the determination of the compensation. In that case since the award had not been passed, this Court had given the direction but in this case award determining the compensation has attained finality. It is not a case to shift the date for the determination of the compensation. Thus considered, we are of the view that the High Court was not justified in interfering with the notification and declaration under Section 4(1) and 6.*
>
> *The appeal is accordingly allowed. The judgment of the High Court stands set aside. The writ petition stands dismissed but, in the circumstances, without costs."*

21. It is well settled legal proposition that scope of judicial review is limited to the decision making procedure and not against the decision of the authority. The Court may review to correct errors of law or fundamental procedure requirements, which may lead to manifest injustice and can interfere with the impugned order in exceptional circumstances. The power of judicial review of the writ court is limited, but it has competence to examine as to whether there was material to form such opinion as required by law or the finding recorded by the authority concerned are perverse. It is settled law that non consideration of relevant material renders an order perverse. A finding is said to be perverse when the same is not supported by evidence brought on record

13. (1996) 6 SCC 445

or they are against the law where they suffer from vice of procedural irregularities.

22. In view of the aforesaid legal proposition, it emerges that land can be acquired for public purpose, the expression "public purpose" cannot be defined by giving a special definition as the same cannot be fitted in a straight jacket formula. The facts and circumstances of each case have to be examined to find whether the acquisition is for public purpose. It is also seen that in most of the matters, delay makes the problem more and more acute and increase urgency of necessity for acquisition.

23. In **Ramniklal N. Bhutta vs. State of Maharashtra**[14]**,** it is observed in paragraph No. 10 as under:-

> *"10. Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with china economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenge the acquisition proceedings in courts. These challenges are generally in shape of writ petitions filed on High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power or grant in stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 - indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lumpsum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."*

24. There cannot be any dispute to the proposition that in land acquisition proceeding tenure holders cannot be allowed to challenge the

14. (1997) 1 SCC 134

land acquisition proceeding after lapse of reasonable time. Generally the Court will not interfere with the land acquisition when the challenge is made with delay and subsequent to taking of possession and publication of award. In the present case admittedly the challenge to the acquisition proceeding was made in the earlier round of litigation, which was eventually dismissed. As per the details come on record the possession was taken on 27.6.1986 and the award was made on 22.9.1986. Similar view has been expressed by Hon'ble Apex Court in **Swaika Properties Pvt. Ltd. & Anr. v. State of Rajasthan & Ors**[15].

25. A Full Bench of this Court in **Gajraj & Ors. v. State of U.P. & Ors**[16]**.,** has observed that substantial delay in challenging the acquisition may be relevant factor while determining the relief to be granted to the petitioner.

26. In **Satendra Prasad Jain v. State of U.P. & Ors**[17]**.,** Hon'ble the Apex Court has held that once land vested in the State, the same is free from all encumbrances, it cannot be divested or revested. For ready reference, the operative portion of the judgment is quoted as under:-

> *".....Ordinarily, the Government can take possession of the land proposed to be acquired only after an award of compensation in respect thereof has been made under Section 11. Upon the taking of possession the land vests in the Government that is to say, the owner of the land loses to the Government the title to it. This is what Section 16 states. The provisions of Section 11-A are intended to benefit the land owner and ensure that the award is made within a period of two years from the date of Section 6 declaration. In the ordinary case, therefore, when Government fails to make an award within two years of the declaration under Section 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11-A, lapse. When Section 17(1) is applied by reason of urgency, Government takes possession of the land prior to the making of the award under Section 11 and thereupon the owner is divested of the title to the land which is vested in the Government. Section 17(1) states so in unmistakable terms. Clearly, Section 11-A can have no application to cases of acquisition under Section 17 because the lands have already vested in the Government and there is no provision in the said Act by which land statutorily vested in the Government can revert to the owner.*
>
> *Further, Section 17(3-A) postulates that the owner will be offered an amount equivalent to 80 per cent of the estimated compensation for the land before the Government takes possession of it underSection 17(1). Section 11-A cannot be so construed as to leave the Government holding title to the land without the obligation to determine compensation, make an award and pay to the owner the difference between the amount of the award and the amount of 80 per cent of the estimated compensation.*

15. (2008) 4 SCC 695
16. 2011 (11) ADJ 1 (FB)
17. AIR 1993 SC 2517

In the instant case, even that 80 per cent of the estimated compensation was not paid to the appellants although Section 17(3-A) required that it should have been paid before possession of the said land was taken but that does not mean that the possession was taken illegally or that the said land did not thereupon vest in the Ist respondent. It is, at any rate, not open to the third respondent, who, as the letter of the Special Land Acquisition Officer dated 27th June, 1990 shows, failed to make the necessary monies available and who has been in occupation of the said land ever since its possession was taken, to urge that the possession was taken illegally and that, therefore, the said land has not vested in the first respondent and the first respondent is under no obligation to make an award.

There is no merit whatsoever in the submission that compensation can be awarded to the appellants under Section 5. Section 5 postulates payment of compensation for damage done to land during the course of surveying it and doing all other acts necessary to ascertain whether it is capable of being adapted for a public purpose. Section 5 has no applicable to the instance case.

In the result, the appeal is allowed. The judgment and order under appeal is set aside. The Rule is made absolute and the first and second respondents are directed by a writ of mandamus to make and publish an award in respect of the said land within twelve weeks from today.

20. The third respondent shall pay to the appellants the costs of the appeal quantified in the sum of Rs. 10,000."

27. In **Aflatoon & Ors. v. Lt. Governor of Delhi & Ors**[18]**.,** it has been observed as under:-

".....The planned development of Delhi had been decided upon by the Government before 1959, viz., even before the Delhi Development Act came into force. It is true that there could be no planned development of Delhi except in accordance with the provisions of Delhi Development Act after that Act came into force, but there was no inhibition in acquiring land for planned development of Delhi under the Act before the Master Plan was ready (see the decision in Patna Improvement Trust v. Smt. Lakshmi Devi and Others(1). In other words, the fact that actual development is permissible in an area other than a development area with the approval or sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the Act. Section 12 is concerned only with the planned development. It has nothing to do with acquisition of property; acquisition generally precedes development. For planned development in an area other than a development area it is only necessary to obtain the sanction or approval of the local authority as provided in S. 12(3). The Central Government could acquire any property under the Act and develop it after obtaining the approval of the local authority. We do not think it necessary to go into the question whether the power to acquire the land under s. 15 was delegated by the Central Government to the Chief Commissioner of Delhi. ***We have already held that the appellants and the writ petitioners cannot be allowed to challenge the validity of the notification under s. 4 on the ground of laches and acquiescence.*** *The plea that the Chief Commissioner of Delhi had no authority to initiate the proceeding for acquisition by issuing the notification under s. 4 of the Act as s. 15 of the Delhi Development Act gives that-power only to the Central Government relates primarily to the validity of the notification. Even assuming that the Chief Commissioner of Delhi was not authorized by the Central Government to issue the notification under s. 4 of the Land Acquisition Act, since the appellants and the writ petitioners are precluded by their laches and acquiescence from questioning the notification, the contention must, in any event, be negatived and we do so.*

It was contended by Dr. Singhvi that the acquisition was really for the cooperative housing societies which are companies within the definition of the word company' in s. 3(e) of the Act, and, therefore, the provisions of Part VII of the Act should have been complied with. Both the learned Single Judge and the Division Bench of the High Court were of the view that the acquisition was not for company. We see no reason to differ from their view. The mere fact that after the acquisition the Government proposed to hand over, or, in fact, handed over, a portion of the

18. (1975) 4 SCC 285

property acquired for development to the cooperative housing societies would not make the acquisition one for company'. Nor are we satisfied that there is any merit in the contention that compensation to be paid for the acquisition came from the consideration paid by the cooperative societies. In the light of the averments in the counter affidavit filed in the writ petitions here, it is difficult to hold that it was cooperatives which provided the fund for the acquisition. Merely because the Government allotted a part of the property to cooperative societies for development, it would not follow that the acquisition was for cooperative societies, and therefore, Part VII of the Act was attracted. It may be noted that the validity of the notification under s. 4 and the declaration under s. 6 was in issue in Udai Ram Sharma and Others v. Union of India(1) and this Court upheld their validity.

We see no merit in the appeals and the writ petitions. They are, therefore, dismissed with costs.

Petitions dismissed."

28. Similar view has also been taken in **Kendriya Karamchari Evam Mitra Sahkari Avas Samiti Ltd. and Anr. v. State of U.P. and Anr**[19]**.**

29. Hon'ble the Apex Court in **V. Chandrasekaran & Anr. v. The Administrative Officer & Ors**[20]**.,** had considered that once land has been vested in the State whether can be divested and has observed in paragraph 16, 17, 18, 21 and 22 as under:-

"16. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. (Vide: Avadh Behari Yadav v. State of Bihar and. Ors. MANU/SC/002/1996: (1995) 6 SCC 31; U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra); Allahabad Development Authority v. Nasiruzzaman and Ors. MANU/SC/1269/1996: (1996) 6 SCC 424, M. Ramalinga Thevar v. State of Tamil Nadu and Ors. MANU/SC/0291/2000: (2000) 4 SCC 322; and Government of Andhra Pradesh v. Syed Akbar and Ors. MANU/SC/0987/2004: AIR 2005 SC 492).

17. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of Section 48 of the Act, or Under Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: State of Madhya Pradesh v. V.P. Sharma MANU/SC/0200/1966: AIR 1966 SC 1593; Lt. Governor of Himachal Pradesh and Anr. v. Shri Avinash Sharma MANU/SC/0417/1970: AIR 1970 SC 1576; Satendra Prasad Jain v. State of U.P. and Ors. MANU/SC/0392/1993 AIR 1993 SC 2517; Rajasthan Housing Board and Ors. v. Shri Kishan and Ors. MANU/SC/0466/1993: (1993) 2 SCC 84 and Dedicated Freight Corridor Corporation of India v. Subodh Singh and Ors. MANU/SC/0268/2011: (2011) 11 SCC 100).

18. The meaning of the word 'vesting', has been considered by this Court time and again. In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust MANU/SC/0082/1956: AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting Under Sections 16 and 17 of the Act is concerned, the Court held as under.-

In the cases contemplated by Sections 16 and 17, the property acquired becomes the property of Government without any condition or; limitations either as to title or possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration.

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19. 1988 UPLBEC 645
20. CIVIL APPEAL No. 6342 – 6343 of 2012 decided on 18.9.2012

> *21. In Government of Andhra Pradesh and Anr. v. Syed Akbar (Supra), this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of Section 48 of the Act, nor can it be reconveyed to the persons-interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: Pratap v. State of Rajasthan MANU/SC/1101/1996: AIR 1996 SC 1296; Chandragaudaj Ramgonda Patil v. State of Maharashtra MANU/SC/1264/1996: (1996) 6 SCC 405; State of Kerala and Ors. v. M. Bhaskaran Pillai and Anr. MANU/SC/0731/1997: AIR 1997 SC 2703; Printers (Mysore). Ltd. v. M.A. Rasheed and Ors. MANU/SC/0307/2004: (2004) 4 SCC 460; Bangalore Development Authority v. R. Hanumaiah MANU/SC/0988/2005: (2005) 12 SCC 508; and Delhi Airtech Services (P) Ltd. and Anr. v. State of U.P. and Anr. MANU/SC/0956/2011: (2011) 9 SCC 354).*
>
> *22.In view of the above, the law can be crystallized to mean, that once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non-grata once the land vests in the State. He has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged. The State neither has the requisite power to reconvey the land to the person-interested, nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory amendment to this effect."*

30. Considering the facts and circumstances of the case, we are of the considered opinion that at this belated stage we cannot permit the petitioner to revive the dead and stale claims. The stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In view of the law laid down by this Court in **Atul Sharma & Ors.** (Supra) and **Jagbeer Singh & Ors.** (Supra) Section 24 of the Act, 2013 would not be attracted in the present matter. Even otherwise as per the parameters of the Constitution Bench mandate in **Indore Development Authority** (Supra) as averred in detail, the claim of the petitioner does not fall under Section 24 of the Act, 2013.

31. In the facts and circumstances, so far as determination of quantum of compensation, principles will have to be applied in relation to acquisition made by Parishad under the Adhiniyam, 1965.

32. Consequently, for all the reasons aforesaid, the reliefs claimed in the writ petition with regard to lapse of acquisition proceeding cannot be available to the petitioner. However, it is always open to the petitioner to move appropriate application to get the compensation.

33. The writ petition stands **disposed of** accordingly.

34. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self

attested by the petitioner alongwith a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked.

35. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 12.03.2021
SP/

(Sanjay Kumar Pachori, J.) **(Mahesh Chandra Tripathi, J.)**