

# **SUPREME COURT OF INDIA**

Govt.of NCT of Delhi

Vs.

Jagjit Singh

C.A.No.2592 of 2015

(Vikramajit Sen and Shiva Kirti Singh JJ.)

27.02.2015

## **JUDGMENT**

### **VIKRAMAJIT SEN, J.**

1. Any determination under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, must proceed sequentially. First, the 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 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 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 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.

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 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 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 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:

"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."

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.

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 the possession had not been taken and compensation, too, 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.