

SUPREME COURT OF INDIA

Delhi Development Authority

Vs.

Reena Suri & Ors.

C.A.No.4544 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

28.04.2016

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.1996 of 2015

1. Leave granted.

2. All these appeals have been filed by the Delhi Development Authority, aggrieved by the Judgment of the High Court of Delhi. In the impugned Judgment, the High Court has taken the stand that the land acquisition initiated under the Land Acquisition Act, 1894, and culminating in passing of awards on different dates, has lapsed in view of Section 24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "2013 Act") in respect of the land covered by these appeals. Section 24 of the Act reads as follows :-

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases - (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,--

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act. 1894, where an award under the said section 11 has been made five years or more prior to the commencement of

this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act"

3. It may be seen that under Section 24(2) of the Act, the proceedings initiated under the Land Acquisition Act, 1894 and culminating in award under Section 11 of the said Act would lapse in case the possession after passing of the award has not been taken within five years or more prior to the commencement of the 2013 Act (9 of 2014). This Act came into force on 01.01.2014. Under Section 24 (2) of the 2013 Act, the proceedings would also lapse in case the compensation has not been paid to the owners of the land before 01.01.2014. However, it is made clear under Section 24(2) of the 2013 Act that despite such lapse, it will be open to the appropriate Government to initiate fresh proceedings for acquisition in accordance with the provisions of the 2013 Act.

4. Sh. Vishnu Saharya, learned counsel appearing for the appellant-Delhi Development Authority, has submitted that once an award has been passed, the property vests in the Government and, therefore, there is no lapse. We are afraid, the contentions raised by him cannot be appreciated.

5. Section 16 of the Land Acquisition Act, 1894 reads as follows:-

"Power to take possession When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon [vest absolutely in the [Government]], free from all encumbrances."

6. Under the above provision, once an award has been made by the Collector under Section 11 of the Act, 1894, the Collector has to take possession of the land and only thereupon, the land will vest in the Government free from all encumbrances. Therefore, passing of the award by itself will not enable the appellant to take a contention that the land has automatically vested with the Government on passing of the award.

7. It is not in dispute that in all these cases, the land has not been taken possession of by the Collector within five years or more prior to 01.01.2014 when the 2013 Act came into force.

8. In that view of the matter, there is no merit in these appeals. The appeals are, accordingly, dismissed.

9. No costs.

