2022 LiveLaw (SC) 307

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.R. SHAH; B.V. NAGARATHNA, JJ.

March 22, 2022

CIVIL APPEAL NOS. 1345-1346 OF 2022 With CIVIL APPEAL NOS. 1347-1374 OF 2022

The Agricultural Produce Marketing Committee, Bangalore *Versus* **The State of Karnataka & Ors.**

Practice and Procedure - Courts have to adjudicate on all the issues raised in a case and render findings and the judgment on all the issues involved - Adopting a shortcut approach and pronouncing the judgment on only one issue, would increase the burden on the appellate court and in many cases if the decision on the issue decided is found to be erroneous and on other issues there is no adjudication and no findings recorded by the court, the appellate court will have no option but to remand the matter for its fresh decision. *(Para 8.4)*

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; Section 24 - Lapse of acquisition. *[Referred to Indore Development Authority Vs. Manoharlal & Ors., (2020) 8 SCC 129] (Para 9)*

Summary: Appeal against the High Court judgment which allowed writ petition answering only one issue, though four other issues were raised - Allowed - Remanded the matter to the Single Judge for deciding the writ petitions afresh and to adjudicate on all the other issues.

For Appellant(s) Dr. Nanda Kishore, AOR

For Respondent(s) Mr. V. N. Raghupathy, AOR Mr. Md. Apzal Ansari, Adv. Mr. Pratap Venugopal, Adv. Ms. Surekha Raman, Adv. Mr. Md. Amzad Khan, Adv. Mr. Akhil Abraham Roy, adv. Mr. Vijay Valsan, Adv. For M/s. K J John And Co. AOR

J U D G M E N T

M. R. Shah, J.

1. As common question of law and facts arise in this group of appeals and as such are between the same parties, all these appeals are decided and disposed of together by this common judgment and order.

2. Feeling aggrieved and dissatisfied with the impugned judgment and order in respective writ appeals preferred by the appellant herein – the Agricultural Produce Marketing Committee, Bangalore (hereinafter referred to as the “APMC”), by which the Division Bench of the High Court has dismissed the said writ appeals and confirmed the common judgment and order passed by the learned Single Judge passed in respective writ petitions preferred by the private respondents herein – original land owners and declared that the acquisitions of the lands in question has lapsed under Section 24(2) of the Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the Act, 2013"), the APMC, Bangalore has preferred the present appeals.

3. The facts leading to the present appeals in a nutshell are as under:

3.1 That the lands in question were acquired in three parts. The first acquisition was in respect of 172 acres 22 guntas of land owned by respondent No.4 – Jamanlal Bajaj Seva Trust (for short "Trust"). Second acquisition was in respect of 104 acres 5 guntas of land owned by very respondent No.4 – Trust and the third acquisition was in respect of 3 acres 34 guntas of land (which is not the subject matter of appeals before this Court).

3.2 The relevant facts in respect of first and second acquisitions are as under:

In respect of 172 acres 22 guntas (First Acquisition)

3.2.1 That a notification was issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act, 1894") on 03.09.1994 in respect of 172 acres 22 guntas of land owned by respondent No.4 herein – Trust in Srigandadakaval Village, Yeshwanthpura Hobli, Bengaluru for establishing a mega market by the appellant – APMC, Bangalore.

3.2.2 One Rajajinagar House Building Cooperative Society challenged the notification issued under Section 4(1), before the High Court of Karnataka by way of Writ Petition No.28988/1994. It was the case on behalf of the said society that the land should be acquired for them and not for APMC. The said writ petition came to be dismissed by the High Court vide order dated 23.12.1995.

3.3.3 Thereafter a notification/declaration under Section 6 of the Act, 1894 was issued on 10.10.1996 and published on 13.10.1996. A draft award was prepared in respect of 172 acres 22 guntas of land on 12.08.1998.

3.3.4 On the instructions given by the Land Acquisition Officer, the appellant – APMC deposited Rs.9,14,14,873/on 19.08.1998 towards approximate cost of the acquisition.

3.3.5 It appears that the aforesaid Rajajinagar House Building Cooperative Society filed another writ petition being W.P. No.6880/1997 before the High Court, before the acquisition of 172.50 acres of land at Srigandadakaval Village could be completed. The High Court granted an exparte order of stay of acquisition proceedings vide interim order dated 16.09.1998. Thereafter respondent no.4 – original land owner filed Writ Petition No.3884/1998 before the High Court, challenging the acquisition proceedings. Vide interim order dated 08.02.1999, the High Court ordered stay of dispossession.

In respect of 104 acres 5 guntas (Second Acquisition)

3.4 That a notification under Section 4(1) read with Section 17(4) of the Act, 1894, dispensing with the requirement of hearing was issued on 13.04.1999 in respect of 104 acres 5 guntas of land owned by respondent No.4 – Trust in Herohalli Village, Yeshwanthpura Hobli, Bangalore North Taluk, for establishing a mega market by the

appellant – APMC. A final notification under Section 6(1) read with Section 17(1) to 17(4) was issued in respect of 100 acres 11 guntas out of 104 acres 5 guntas which had been notified under Section 4(1) on 13.04.1999, leaving an area of 3 acres 34 guntas out of acquisition. An enquiry under Section 5A was dispensed with.

3.4.1 That one Vishwaneedam Trust filed Writ Petition No.708/2000 before the High Court challenging the said acquisition. The High Court granted stay of dispossession in respect of 35 acres out of the 100 acres 5 guntas situated in Herohalli Village.

3.4.2 Respondent No.4 – Trust – original land owner filed Writ Petition No.37140/2000 challenging the notifications dated 13.04.1999 and 26.10.1999 in respect of the lands at Herohalli Village.

3.4.3 According to the appellant, possession was taken and handed over to the APMC by the Land Acquisition Officer vide an Official Memorandum of Possession dated 06.10.2000 in respect of 65 acres 19 guntas of the lands at Herohalli Village.

3.4.4 That an award was made by the State Land Acquisition Officer (SLAO) on 22.05.2002, referring to a Government order dated 26.03.2002, in respect of 100 acres 11 guntas covered by Section 6 notification dated 26.10.1999. The award provided for payment of compensation to respondent No.4 – Trust after excluding 34 acres 14 guntas of acquired land treating the same as Phut Kharab belonging to the Government and further excluding 35 acres in respect of the writ petition filed Vishwaneedam trust in which an order of stay of dispossession had been passed by the High Court. The said compensation was accepted by respondent No.4 under protest. Respondent No.4 – Trust – original land owner filed a Land Acquisition Case No.1/2003 seeking enhancement of compensation which seems to be pending.

3.5 Thus, Writ Petition No.3884/1998 filed by respondent No.4 – original land owner was in respect of 172 acres 22 guntas of land. Writ Petition Nos.3714037146/ 2000 was in respect of 100 acres of land and Writ Petition No.708/2000 was filed by Vishwaneedam Trust in respect of second acquisition (part).

3.6 A common statement of objections was filed by the appellant – APMC to all the writ petitions.

3.7 That the APMC filed IA No.01/2007 in W.P. No.37140/2000, to permit APMC to hand over 9 acres of land out of 65 acres 11 guntas to the Bangalore Development Authority (BDA) and 4 acres to the Bangalore Water Supply and Sewerage Board (BWSSB). That vide order dated 21.03.2007, the learned Single Judge allowed the said IA No.01/2007 and granted permission to the APMC as prayed.

3.8 At this stage, it is required to be noted that in respect to the lands in question and other lands owned by respondent No.4 – Trust, proceedings were pending before the Land Reforms Tribunal, Bangalore N. Taluk. At this stage, it is required to be noted that it was the specific case on behalf of the State and the APMC that unless the proceedings under the Karnataka Land Reforms Act (KLR Act) are disposed of, the compensation is

not required to be deposited as, if ultimately it is held that the land acquired is excess vacant land under the provisions of KLR Act, in that case, the said land would vest with the State Government and therefore, no compensation would be payable. Therefore, since the Government was not proceeding with making of awards or offering compensation on the ground that proceedings were pending before the Land Reforms Tribunal, by the same order dated 21.03.2007 the learned Single Judge directed the Tribunal to dispose of application No.LRF 2099/7475 under Section 66 of the KLR Act, within three months.

3.9 The order passed by the learned Single Judge dated 21.03.2007 granting permission to the APMC to hand over 9 acres of land to BDA and 4 acres of land to BWSSB was challenged before the Division Bench of the High Court by way of Writ Appeal No.1011/2007. The Division Bench of the High Court stayed the order of the learned Single Judge. The said appeal along with some companion appeals came to be disposed of by the Division Bench vide order dated 28.06.2012, directing learned Single Judge to decide all the connected writ petitions finally and continued the interim stay granted by the Division Bench until the final disposal of all the petitions.

3.10 Thereafter APMC filed IA No.03/2008 seeking permission to build a wall around 65 acres of land, which came to be allowed vide order dated 12.02.2009. It is reported that thereafter APMC has completed the fencing work.

Proceedings before the Land Reforms Tribunal

3.11 That the Land Reforms Tribunal (hereinafter referred to as "the Tribunal") passed an order dated 12.01.2010 in the proceedings under the KLR Act holding that 213 acres 20 guntas of respondent No.4 – Trust's land was excess land under the said Act.

3.11.1 The order passed by the Tribunal was challenged before the High Court in Writ Petition No.4311/2010. The High Court vide order dated 24.03.2014 remitted the proceedings to the Tribunal with directions for a fresh consideration.

3.11.2 On remand the Tribunal passed a fresh order dated 22.09.2015 and declared that 265 acres 24 guntas of land held by respondent No.4 – Trust was excess land. That the order passed by the Tribunal dated 22.09.2015 was challenged before the High Court and the High Court vide order dated 02.05.2017 set aside the order passed by the Tribunal dated 22.09.2015 and once again remitted the matter to the Tribunal.

3.11.3 That the Tribunal passed a fresh order dated 28.11.2017 and declared that 354 acres 10 guntas was excess land. The order passed by the Tribunal dated 28.11.2017 was again the subject matter before the High Court by way of Writ Petition No.55344/2017. By judgment and order dated 30.06.2021, the learned Single Judge has quashed and set aside the Tribunal's order dated 28.11.2017. It is reported that against the judgment and order passed by the learned Single Judge of the High Court dated 30.06.2021 passed in Writ Petition No.55344/2017, the State has preferred a writ appeal

being W.A. No.1089/21, which is reported to be pending before the Division Bench of the High Court.

3.12 That all the aforesaid writ petitions being W.P. No.3884/1998 (in respect of 172 acres of land), W.P. Nos. 3714037146/ 2000 (in respect of 100 acres of land) and others writ petitions being W.P. No.708/2000 and 1957919585/ 2001, were clubbed together. During the pendency of the aforesaid writ petitions the Act, 2013 came into force. Therefore, the writ petitioners submitted an application dated 24.02.2014 seeking to invoke the benefit of the Act, 2013 and urged that the benefit of provisions of the said Act would be available to it.

3.13 That the learned Single Judge framed the following points for consideration:

a. Whether the disposal of these petitioners should be deferred pending adjudication and determination by the Land Tribunal, Bangalore North Taluk of the excess holdings or otherwise under the provisions of the Karnataka Land Reforms Act, 1961 of the very lands which are the subject matter herein.

b. Whether the possession of a portion of the lands in question having said to have been given to APMC can be said to be valid and in accordance with law.

c. Whether the invocation of Section 17 of the LA Act in the acquisition of a portion of the lands for the same purpose was justified.

d. Whether the acquiring authority could keeping abeyance the mandate to pay or deposit the compensation amount pending disposal of the proceedings before the Land Tribunal in respect of the lands.

e. Whether the acquisition proceedings have lapsed by virtue of the 2013 Act.

3.14 That though some observations were made on the proceedings under the Act, 1894, thereafter, without further finally deciding any other point framed for consideration, as reproduced hereinabove, the learned Single Judge has allowed the writ petitions by holding that respective acquisitions have lapsed under Section 24(2) of the Act, 2013.

3.15 Feeling aggrieved and dissatisfied with the common judgment and order passed by the learned Single Judge dated 24.06.2014 holding that respective acquisitions have lapsed under Section 24(2) of the Act, 2013, the APMC preferred writ appeals before the High Court. By the impugned common judgment and order, the Division Bench of the High Court has dismissed the said appeals confirming the judgment and order passed by the learned Single Judge declaring that the acquisition have lapsed under Section 24(2) of the Act, 2013.

3.16 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the Division Bench of the High Court in respective Writ Appeal No.1732/2014 and others along with accompanied appeals, the APMC, Bangalore, has preferred the present appeals.

4. Shri V. Giri, learned Senior Advocate appearing on behalf of the appellant – APMC has vehemently contended that in the facts and circumstances of the case the High Court

has erred in holding that the acquisitions in respect of the lands in question have lapsed under Section 24(2) of the Act, 2013.

4.1 It is further contended that in respect of acquisition of 172 acres land no award was declared in view of the stay granted by the High Court in various proceedings. It is submitted that therefore subsection (2) of Section 24 of the Act, 2013 shall not be applicable. It is submitted that therefore the High Court has erred in declaring that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013.

4.2 It is further submitted that so far as the acquisition in respect of 100 acres of land situated at Herohalli Village is concerned, the award in respect of 65 acres of land was declared and the possession was also taken over. Further, the amount of compensation was deposited and the respondent – original land owner withdrew Rs.2.37 crores, therefore it cannot be said that the acquisition has lapsed under subsection (2) of Section 24 of the Act, 2013.

4.3 It is urged that the High Court has not properly appreciated the fact that in respect of acquisition of 172 acres and in respect of remaining 35 acres out of the 100 acres of land, the awards could not be declared in view of the stay orders granted by the High Court in various proceedings. Therefore, for the purpose of Section 24(1)(a) of the Act, 2013, being made applicable, the period during which the stay orders were in operation have to be excluded.

4.4 Now so far as the observations made by the High Court that the appellant was not ready to deposit the amount of compensation, it is submitted that the High Court ought to have appreciated that as such there was a very valid reason and/or justification for the APMC not to deposit the entire amount of compensation. It is submitted that with respect to the very land in question the proceedings under the KLR Act were pending before the Land Reforms Tribunal and the Tribunal had to take a call and/or decision that the respondentTrust is holding any excess vacant land or not and therefore, it was thought fit to wait till the outcome of the proceedings under the Land Reforms Act. It is submitted that the aforesaid reason cannot be ascribed against the appellant on the ground that the appellant was not ready to deposit/pay the compensation.

4.5 It is further submitted that even the High Court has materially erred in holding that possession in respect of 65 acres of land was illegal which was taken by invoking urgency clause and not complying with the deposit of 80% of compensation as required under Section 17 of the Act, 1894.

4.6 It is further submitted that as such in the impugned judgment and order the High Court has not at all quashed and set aside the notifications under Section 4 and 6 of the Act, 1894 in respect of 172 acres and 100 acres of lands, respectively. It is submitted that after some discussion on the proceedings under the Act, 1894, the High Court has straightway considered the applicability of the Act, 2013 and has held that the acquisitions in respect of both the lands have lapsed under subsection (2) of Section 24 of the Act, 2013.

4.7 Relying upon the decision of the Constitution Bench of this Court reported in the case of **Indore Development Authority Vs. Manoharlal & Ors.,** (2020) 8 SCC 129, it is submitted that the impugned judgment and order passed by the High Court holding that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013, is not sustainable.

4.8 A number of submissions are sought to be made by Shri V. Giri, learned Senior Advocate appearing on behalf of the appellant – APMC on repeal of the Act, 1894 in view of the enactment of the Act, 2013 and the effect of the Act, 2013 on the acquisitions under the Act, 1894. However, for the reasons stated hereinbelow and as the High Court has not at all considered any of the submissions/issues on the validity of the notifications issued under Section 4 and 6 and the High Court having considered and dealt with the applicability of subsection (2) of Section 24 of the Act, 2013 and having held that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013, we propose to remand the matter to the High Court to decide the other issues raised afresh, in accordance with law and on merits. Therefore, we have not dealt with any of the submissions made by Shri V. Giri, learned Senior Advocate and even Shri C.U. Singh, learned Senior Advocate appearing on behalf of the respondent – Trust on merits on other issues. Hence, we have restricted the consideration of the present appeals to the impugned judgment and order passed by the High Court declaring that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013.

5. Shri V.N. Raghupathy, learned counsel appearing on behalf of the State has supported the appellant – APMC. He has stated that the Writ Appeal No.1089/21 challenging the judgment and order passed by the learned Single Judge quashing and setting aside the order passed by the Tribunal, is pending before the Division Bench of the High Court. Therefore, it is prayed that if this honourable Court proposes, to remand the matter to the learned Single Judge, in that case, the aforesaid appeal be directed to be heard first by the Division Bench of the High Court.

6. All these appeals are vehemently opposed by Shri C.U. Singh, learned Senior Advocate appearing on behalf of the respondent – Trust – original land owner. It is submitted that in the present case respondent – Trust is undertaking various activities and running the ashram in furtherance of the object of the Trust. It is submitted that respondent – Trust is not an ordinary individual land owner. That the Trust was established in the year 1960. It is submitted that the lands in question was purchased in the year 1960 and the same is being used to carry out Gandhian activities and in furtherance of the object of the Trust.

6.1 It is submitted that in the present case the High Court has rightly observed that the State Government/APMC have no intention of paying any compensation for the acquisition of the subject lands and accordingly, chose to abandon the acquisition of the lands or to allow the same deliberately to lapse.

6.2 Shri Singh, learned Senior Advocate appearing on behalf of respondent – Trust has also made elaborate submissions on the legality and validity of the notifications under section 4 and 6 of Act, 1894 in respect of the acquisitions of 172 acres and 100 acres lands, respectively. However, by the impugned judgment and order the High Court has not declared and set aside the notifications under Section 4 and 6 of the Act, 1894 and has held and declared that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013 and the High Court has not at all decided the other issues which were placed before it. We propose not to deal with any of the submissions on other issues on which there is no decision by the High Court and we confine the present appeals to the decision of the High Court declaring and holding that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013 and for the other issues we propose to remand the matter to the High Court.

6.3 Now so far as the impugned judgment and order passed by the High Court holding and declaring that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013, Shri Singh learned Senior Advocate appearing on behalf of respondent – Trust has fairly conceded that in view of the subsequent decision of this Court in the case of **Indore Development Authority** (supra), the view taken by the High Court that the acquisitions have lapsed under subsection (2) of Section 24 of the Act, 2013 is unsustainable. However, he has submitted that the learned Single Judge and even the learned Division Bench of the High Court were right in holding so, considering the law prevailing at that time when the learned Single Judge decided the matters. It is submitted that the learned Single Judge followed the law prevailing at the relevant time and the learned Single Judge decided the matters accordingly. It is submitted that therefore no fault can be found with the view taken by the learned Single Judge.

7. We have heard the learned counsel appearing on behalf of the respective parties at length.

8. At the outset it is required to be noted that the proceedings before the learned Single Judge of the High Court by way of writ petition No. 3884 of 1998 was with respect to 172 acres 22 guntas of land acquired. In the writ petition No. 3884 of 1998, the original land owners prayed for the following reliefs:

(i) Declare that the entire acquisition proceedings commencing with the issue of a preliminary notification gazette on 3.9.1994 marked as AnnexureA in the writ petition have lapsed on account of the award not having been made within a period of two years in terms of Section 11A of the Land Acquisition Act.

(ii) Issue a writ of certiorari or any other writ, order or direction to quash AnnexureA, the preliminary notification LAQ (2) SR/32/9495 DATED 2.9.1994 PUBLISHE DIN TH Karnataka Gazette dated 3.9.1994 and Annexure the final notification No. RDD 21 LAQ 96 dated 10.10.1996 published in the Karnataka Gazette dated 31. l 0.1996.

By way of amendment the original writ petitioners – original land owners also prayed to declare that the acquisition proceedings are deemed to have lapsed in view of the

provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

8.1 Writ petition Nos. 3714037146 of 2000 filed by the original writ petitioners – original land owners was with respect to 100 acres of acquired land. In the said writ petitions original writ petitioners prayed for the following reliefs:

(i) Issue a Writ of certiorari or any other writ or order, quashing the impugned notification at AnnexureB dated 13.04.1999 gazetted on 17.04.1999 in LAC(2) SR 2/992000 issued by the second respondent and also the notification at AnnexureC dated 26.10.1999 gazetted on 18.11.1999 in No. Kam.E.68.AQ899 issued by the first respondent.

OR

(ii) In the alternative direct the respondents to pay compensation to the petitioner in terms of the proceedings of the meeting dated 29.04.1999 Vide AnnexureD

By way of amendment the original writ petitioners also prayed to declare the acquisition proceedings having been lapsed under the provisions of the Act, 2013.

8.2 That the learned Single Judge framed the following common points for consideration:

a. Whether the disposal of these petitioners should be deferred pending adjudication and determination by the Land Tribunal, Bangalore North Taluk of the excess holdings or otherwise under the provisions of the Karnataka Land Reforms Act, 1961 of the very lands which are the subject matter herein.

b. Whether the possession of a portion of the lands in question having said to have been given to APMC can be said to be valid and in accordance with law.

c. Whether the invocation of Section 17 of the LA Act in the acquisition of a portion of the lands for the same purpose was justified.

d. Whether the acquiring authority could keeping abeyance the mandate to pay or deposit the compensation amount pending disposal of the proceedings before the Land Tribunal in respect of the lands.

e. Whether the acquisition proceedings have lapsed by virtue of the 2013 Act.

Despite the fact that a number of issues/grounds were raised before the High Court on the legality and validity of the acquisition proceedings, the learned Single Judge decided only one issue, namely, whether the acquisition proceedings have lapsed by virtue of the 2013 Act. Whereas a number of issues/grounds were raised and as such the original reliefs sought (acquisition proceedings under Act 1894) were the main reliefs which were required to be dealt with and considered, unfortunately, the learned Single Judge did not give findings on the other issues/grounds and on the reliefs sought and as observed hereinabove, disposed of the writ petitions considering only one relief/ground, namely, whether the acquisition proceedings have lapsed by virtue of the 2013 Act. When a number of submissions were made on the other issues/grounds, we are of the opinion that the High Court ought to have considered the other issues and ought to have given the findings on other issues also. Because of not deciding the other issues and deciding the matter only on one issue and thereafter when the decision on such one issue, is held

to be bad in law for the reasons stated hereinbelow, this Court has no other alternative but to remand the matters to the learned Single Judge for deciding the Writ Petitions afresh on all other issues.

8.3 By way of analogy we observe that while considering Order 14 Rule 2 (as amended w.e.f. 01.02.1977), this Court in the case of **Nusli Neville Wadia Vs. Ivory Properties & Ors**, (2020) 6 SCC 557, has observed and held that after the amendment w.e.f. 01.02.1977, though Order 14 Rule 2(2) enables the court to decide the issue of law as a preliminary issue in case the same relates to (i) jurisdiction of court or (ii) a bar to suit created by any law for the time being in force, a departure has been made in amended provision whereby now it mandates the court to pronounce judgment on all issues notwithstanding that a case may be disposed of on a preliminary issue. It is further observed that intendment behind this departure is to avoid remand in an appealable case for deciding other issues.

8.4 Therefore, the courts should adjudicate on all the issues and give its findings on all the issues and not to pronounce the judgment only on one of the issues. As such it is the duty cast upon the courts to adjudicate on all the issues and pronounce the judgment on all the issues rather than adopting a shortcut approach and pronouncing the judgment on only one issue. By such a practice, it would increase the burden on the appellate court and in many cases if the decision on the issue decided is found to be erroneous and on other issues there is no adjudication and no findings recorded by the court, the appellate court will have no option but to remand the matter for its fresh decision. Therefore, to avoid such an eventuality, the courts have to adjudicate on all the issues raised in a case and render findings and the judgment on all the issues involved.

9. Now, so far as the impugned common judgment and order passed by the High Court declaring that the acquisition proceedings have lapsed under subsection (2) of Section 24 of the Act, 2013, is concerned, the same is unsustainable in view of the decision of the Constitution bench of this Court in the case of **Indore Development Authority** (supra). This Court has concluded in paragraph 365 and 366 as under: **“**

365. Resultantly, the decision rendered in *Pune Municipal Corpn.* [*Pune Municipal Corpn.* v. *Harakchand Misirimal Solanki*, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] is hereby overruled and all other decisions in which *Pune Municipal Corpn.* [*Pune Municipal Corpn.* v. *Harakchand Misirimal Solanki*, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] has been followed, are also overruled. The decision in *Sree Balaji Nagar Residential Assn.* [*Sree Balaji Nagar Residential Assn.* v. *State of T.N.*, (2015) 3 SCC 353 : (2015) 2 SCC (Civ) 298] 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* [*Indore Development Authority* v. *Shailendra*, (2018) 3 SCC 412 : (2018) 2 SCC (Civ) 426] , 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.

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 112014, 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 nondeposit 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. Nondeposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of nondeposit 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 nonpayment or nondeposit 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 112014. 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. 112014. It does not revive stale and timebarred 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."

We wish to emphasise that this Court has opined that all judgments rendered on the basis of ***Pune Municipal Corporation Vs. Harakchand Misirimal Solanki*** **[(2014) 3 SCC 183]** are overruled in view of the interpretation made to Section 24(2) of the Act, 2013, in **Indore Development Authority** (supra). There has been a trend of land owners filing fresh cases seeking lapse of acquisition on the basis of Section 24(2) of the Act, 2013, although such land owners may have earlier unsuccessfully filed writ petitions challenging the acquisition notifications. Such land owners may have had the benefit of interim orders of stay of further proceedings in the acquisition process or dispossession resulting in a delay in the making of the award and payment/deposit of the compensation and consequently in taking over possession of the acquired land. There being a delay in the passing of the award owing to interim orders granted by the High Court or even by the civil courts, where suits may have been filed against acquiring bodies, the land owners cannot now take advantage of the same so as to contend that no award has been made and consequently there has been no payment or deposit of the compensation and that possession of the acquired land continues with them. The land owners having had the benefit of interim orders granted in their favour in proceedings initiated by them against the acquisition cannot take benefit under Section 24(2) of the Act, 2013. The High Court or the civil courts which may have granted interim orders in favour of the land owners, ought to consider the aforesaid aspect before applying Section 24(2) of the Act, 2013 in favour of the land owners.

10. Applying the law laid down by this Court in the case of **Indore Development Authority** (supra) to the facts of the case on hand, the view taken by the High Court while declaring the acquisition proceedings have lapsed under subsection (2) of section 24 of the Act, 2013, is unsustainable and is just contrary to the law laid down by this Court in the case **Indore Development Authority** (supra). Even the same is also not disputed by Shri C. U. Singh, learned Senior Advocate appearing on behalf of the original writ petitioners – original land owners. Therefore, the common judgment and order passed by the High Court allowing the writ petitions and declaring that the acquisition proceedings with respect to the lands in question have lapsed under subsection (2) of section 24 of the Act, 2013 cannot stand and the same deserve to be quashed and set aside.

11. As observed hereinabove, though a number of other issues were raised on the legality of the acquisition proceedings under the Act, 1894 and though other points for consideration were raised/framed by the High Court reproduced hereinabove, since none of the issues are adjudicated by the High Court on merits, we have no other alternative but to remand the matter to the learned Single Judge for deciding the writ petitions afresh and to adjudicate on all the other issues, other than the lapse of acquisitions under subsection (2) of section 24 of the Act, 2013. At the cost of repetition, we observe that the High Court ought to have adjudicated on all the issues raised and ought not to have

decided and disposed of the writ petitions, adjudicating only on one issue which has been found to be erroneous. The Division Bench has also not applied its mind to this aspect of the matter and has simply dismissed the appeals filed by the appellant herein.

12. In view of the above discussion and for the reasons stated above, all these appeals are allowed. The impugned common judgment and order passed by the Division Bench of the High Court as well as the common judgment and order passed by the High Court in writ petition(s) No. 3884/1998 and Nos. 3714037146/ 2000 are hereby quashed and set aside. The matters are remitted back to the learned Single Judge to decide and dispose of the aforesaid writ petitions afresh and in accordance with law and on their own merits. The learned Single Judge to adjudicate all other issues which were framed reproduced hereinabove and pronounce the judgment on all the points framed for consideration. The aforesaid exercise shall be completed within a period of twelve months from the date of receipt of the present order.

It is made clear that we have not expressed anything on the merits of these cases, in favour of either of the parties on other issues and it is ultimately for the learned Single Judge to deal with and consider the same in accordance with law and on their own merits. It is also made clear that on remand the learned Single Judge to adjudicate and pronounce the judgment on all other issues except the issue with respect to the lapse of the acquisition proceedings by virtue of the Act, 2013. All the appeals are allowed accordingly.

We also observe and direct that Writ Appeal No.1089 of 2021 be heard first and to be decided and disposed of on or before 31.12.2022. There shall be no order as to costs.