

A THE WORKING FRIENDS COOPERATIVE HOUSE
BUILDING SOCIETY LTD.

v.

B THE STATE OF PUNJAB & ORS.
(Civil Appeal No.8468 of 2015)

OCTOBER 12, 2015

[MADAN B. LOKUR AND R.K. AGRAWAL, JJ.]

C *Right to Fair Compensation and Transparency in Land*
Acquisition, Rehabilitation and Resettlement Act, 2013:
s.24(2) – Compensation was neither paid to the land owners
nor was it deposited in the reference court – Therefore,
D *compulsory acquisition of the appellant's land under the Land*
Acquisition Act, 1894 lapses in view of the provisions of
s.24(2) of the Act of 2013 – Land Acquisition Act, 1894.

Allowing the appeal, the Court

E **HELD:** One of the requirements mentioned in
Section 24(2) of the Act is that the compensation should
have either been paid to the land owner or should have
been deposited in the Reference Court. The admitted
F position is that the compensation of Rs. 35,52,528/- was
neither paid to the appellant nor was it deposited in the
Reference Court. It was admittedly deposited in the
Government Treasury of the State. The deposit was,
apart from anything else, made only after the Act came
G into force and was perhaps with a view to get over the
provisions of Section 24(2) of the Act and the prayer made
in I.A. No. 4. Unfortunately, even the deposit of the
compensation amount in the Reference Court on 26th
H June, 2014 does not come to the aid of the appellant

under any circumstances and cannot be taken as A
“deemed payment”. [Para 20] [1105-B-D]

Kamail Kaur v. State of Punjab (2015) 3 SCC 206
– held inapplicable.

Union of India v. Shiv Raj (2014) 6 SCC 564; B
Bharat Kumar v. State of Haryana (2014) 6 SCC
586; *Bimla Devi v. State of Haryana* (2014) 6 SCC
583; *Sree Balaji Nagar Residential Association*
v. State of Tamil Nadu (2015) 3 SCC 353: 2014 C
(7) SCR 799; *Radiance Fincap (P) Ltd. v. Union*
of India MANU/SC/0064/2015; *Arvind Bansal v.*
State of Haryana MANU/SC/0260/2015; *Rajiv*
Choudhrie HUF v. Union of India MANU/SC/0261/
2015; *Commissioner of Income Tax v. Vatika* D
Township Pvt. Ltd. (2015) 1 SCC 1; *Pune*
Municipal Corporation v. Harakchand Misirimal
Solanki (2014) 3 SCC 183:2014 (1) SCR 783 –
referred to.

Case Law Reference E

2014 (1) SCR 783	referred to.	Para 8	
(2014) 6 SCC 564	referred to.	Para 14	F
(2014) 6 SCC 586	referred to.	Para 14	
(2014) 6 SCC 583	referred to.	Para 14	
2014 (7) SCR 799	referred to.	Para 15	G
(2015) 3 SCC 206	held inapplicable.	Para 16	
MANU/SC/0064/2015	referred to.	Para 17	
MANU/SC/0260/2015	referred to.	Para 17	H

A **MANU/SC/0261/2015** referred to. **Para 17**
 (2015) 1 SCC 1 referred to. **Para 18**

B CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8468 of 2015.

From the Judgment and Order dated 24.04.2012 passed by the Hon'ble High Court of Punjab and Haryana at Chandigarh in C.W. P. No. 2996 of 1995.

C Neeraj Kumar Jain, Sr. Adv., Gagan Gupta, for the Appellants.

D R. P. Bhatt, Sr. Adv., Ajay Bansal, AAG, Jagjit Singh Chhabra, Gaurav Yadava, Shubham Bhalla, Ritesh Khatri, Advs., for the Respondents.

The Judgment of the Court was delivered by

MADAN B. LOKUR, J. 1. Leave granted.

E 2. The question for consideration is whether the compulsory acquisition of the appellant's land under the Land Acquisition Act, 1894 lapses in view of the provisions of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
 F (for short 'the Act'). In our opinion, the question must be answered in the affirmative and it must be held that the compulsory acquisition of the appellant's land has lapsed.

G **The Facts**

H 3. A notification was issued by the State Government under Section 4 of the Land Acquisition Act, 1894 on 12th November, 1992 proposing to acquire a large chunk of land. This was followed by a notification under Section 6 of the Land Acquisition Act issued on 21st July, 1993. Although, a large

chunk of land was acquired by virtue of these two notifications, A
the appellant is concerned only with its land admeasuring about
14.90 acres.

4. The compulsory acquisition of the appellant's land led B
to proceedings for adjudication of the compensation due from
the State Government. Accordingly, an Award was passed by
the Land Acquisition Collector on 22nd February, 1995 and the
compensation determined at Rs.35,52,528/-. For reasons that
are not clear, the compensation was not tendered to the C
appellant but was deposited in the Treasury. The appellant
challenged the quantum of compensation in the Reference
Court and when that was enhanced, the enhanced
compensation was deposited in the Reference Court.

5. Feeling aggrieved by the acquisition of its land, the D
appellant preferred C.W.P. No. 2996 of 1995 in the Punjab
and Haryana High Court wherein the above two notifications
were challenged. As an interim measure, the High Court
directed the maintenance of status quo and since the appellant
was in actual, physical, vacant and peaceful possession it E
continued to remain so in view of the interim orders.

6. The writ petition filed by the appellant was eventually F
dismissed by the High Court by the impugned judgment and
order dated 24th April, 2012.

7. The appellant has challenged the decision of the High G
Court in this Court and during the pendency of this appeal,
Parliament enacted the Act which came into force with effect
from 1st January, 2014.

Proceedings in this Court

8. As a result of the coming into force of the Act, the H
appellant moved I.A. No. 4 of 2014 in this Court being an
application for directions to the effect that the acquisition

A proceedings by which the appellant's land was acquired had
lapsed. Reference was made in the application to the
provisions of Section 24(2) of the Act as well as a decision of
this Court in ***Pune Municipal Corporation v. Harakchand***
B ***Misirimal Solanki***.¹ It was stated in the application that the
appellant was in possession of the acquired land and that the
respondents had only taken paper possession thereof. It was
also stated that the compensation for the compulsory
C acquisition of the land was deposited in the Treasury and not
in the Reference Court and that the appellant has not withdrawn
the compensation so awarded. The enhanced compensation
was, however, deposited in the Reference Court.

9. A reply to I.A. No.4 of 2014 was filed by respondent
no. 3 on or about 12th August, 2014 in the form of a counter
D affidavit. It was stated in the reply that the entire acquired land
was taken over by the Land Acquisition Collector and handed
over to the then Estate Officer, Urban Estates, Punjab. The
compensation of Rs. 35,52,528/- was deposited with the
E Treasury of the State Government and subsequently deposited
in the Reference Court by the Land Acquisition Collector on
26th June, 2014. However, the enhanced compensation of Rs.
2,91,77,074/- was deposited in the Reference Court.

F 10. With regard to possession of the acquired land it was
stated that the respondents are in actual, physical possession
of the land. On this basis, it was contented that this appeal
itself deserves dismissal.

G 11. The respondents filed an additional affidavit in
response to the application on or about 20th February, 2015.
In the additional affidavit it was reiterated that physical
possession of the entire acquired land was taken over from
the land owners by the Land Acquisition Collector and handed

H ¹ (2014) 3 SCC 183

over to the Estate Officer, Urban Estates, Punjab in 1995. It was stated that the physical possession of the acquiring department was also reflected in the revenue records. It was stated that in the reply to the writ petition filed in the High Court it was pointed out as early as on 28th March, 1995 that possession of the acquired land had been taken over by the respondents.

12. With regard to the payment of compensation, it was stated in the additional affidavit that the compensation due to the appellant was deposited in the Government Treasury on 7th July, 1995 and the enhanced compensation was deposited in the Reference Court first on 3rd September, 2004 and thereafter on 24th February, 2012. It was further stated that the original compensation awarded to the appellant, that is, Rs. 35,52,528/- was subsequently deposited in the Reference Court by the Land Acquisition Collector on 26th June, 2014 after the Act came into force.

Law on the subject

13. The law on the subject is now no longer *res integra*. The leading judgment in respect of Section 24(2) of the Act was delivered in ***Pune Municipal Corporation***. It was concluded in paragraph 20 of the aforesaid decision, that the Award had been made by the Land Acquisition Collector more than five years prior to the commencement of the Act and compensation had not been paid to the landowners/persons interested nor deposited in the Court. It was held that the deposit of compensation in the Government Treasury is of no avail. Consequently, there was no option but to hold that the land acquisition proceedings were deemed to have lapsed under Section 24(2) of the Act. Paragraph 20 reads as follows:-

“From the above, it is clear that the award pertaining to the subject land has been made by the Special Land

A Acquisition Officer more than five years prior to the
commencement of the 2013 Act. It is also admitted
position that compensation so awarded has neither been
paid to the landowners/persons interested nor deposited
B in the court. The deposit of compensation amount in the
Government treasury is of no avail and cannot be held to
be equivalent to compensation paid to the landowners/
persons interested. We have, therefore, no hesitation in
holding that the subject land acquisition proceedings shall
C be deemed to have lapsed under Section 24(2) of the
2013 Act.”

14. Subsequently, this decision was followed in *Union of
India v. Shiv Raj*.² It was held, after examining the Objects
and Reasons for the Act that since the possession of the
D acquired land had not been taken and compensation had been
deposited with the Revenue Department, it could not be termed
as “deemed payment” of the compensation as held in *Pune
Municipal Corporation*. Accordingly, the appeals filed by
E the Union of India were liable to be dismissed. In this context,
it may be noted that reference was also made to two other
decisions of this Court namely *Bharat Kumar v. State of
Haryana*³ and *Bimla Devi v. State of Haryana*⁴ which were
to the same effect.

F 15. The issue again came up for consideration in *Sree
Balaji Nagar Residential Association v. State of Tamil
Nadu*⁵ and the decision rendered in *Pune Municipal
Corporation* and *Shiv Raj* were followed. In that case, it
G was noted that there is a lack of clarity on the issue whether
compensation has been paid for majority of the land holding

² (2014) 6 SCC 564

³ (2014) 6 SCC 586

⁴ (2014) 6 SCC 583

H ⁵ (2015) 3 SCC 353

under acquisition, but there was no dispute that possession of the land under consideration had not been taken by the State or any other authority. It was also noted that more than five years had elapsed since the making of the Award. On this basis, it was held that Section 24(2) of the Act was applicable and the land acquisition proceedings must be deemed to have lapsed.

16. Finally, in ***Karnail Kaur v. State of Punjab***⁶ the issue was once again examined, this time a little more elaborately but there was no deviation from any of the decisions rendered by this Court. The additional submission made in this case on behalf of the State of Punjab and negated by this Court, related to The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, whereby a second proviso was inserted in Section 24(2) of the Act. The Ordinance came into force with effect from 1st January, 2015 and it was held by this Court that the Ordinance had only prospective effect and was not retrospective. Therefore, the period of the grant of stay or injunction by any Court from taking possession of the acquired land would not be excluded retrospectively for computing the period of five years referred to in Section 24(2) of the Act. This issue does not arise in so far as the present appeal is concerned since no argument based on the Ordinance was raised and in any case the Ordinance has since lapsed. However, we are mentioning this only to highlight the fact that the interpretation of Section 24(2) of the Act has been considered by this Court from all possible angles.

17. The issue of retrospectivity of the Ordinance has also been considered in ***Radiance Fincap (P) Ltd. v. Union of India***,⁷ ***Arvind Bansal v. State of Haryana***⁸ and ***Rajiv***

⁶ (2015) 3 SCC 206

⁷ MANU/SC/0064/2015

⁸ MANU/SC/0260/2015

A **Choudhrie HUF v. Union of India.**⁹

18. On the issue of retrospectivity, we may only mention the view taken by a Constitution Bench of this Court in **Commissioner of Income Tax v. Vatika Township Pvt.**

B **Ltd.**¹⁰ It was held in paragraph 29 of the Report as follows:-

C “The obvious basis of the principle against retrospectivity is the principle of “fairness” which must be the basis of every legal rule as was observed in *L’Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co. Ltd.* Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties.”

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G 19. Applying the law laid down by the Constitution Bench, it must be held that the appellant had an accrued right which must be recognized by Section 24(2) of the Act. The Ordinance which purported to take away such an accrued right would have to be treated as prospective unless the legislative intent was clearly to give it retrospective effect. As mentioned above, this issue does not arise in the present case but is being mentioned only to buttress the conclusion arrived at by this Court in **Karnail Kaur** and subsequent decisions.

H 20. In so far as the facts of the present appeal are

⁹ MANU/SC/0261/2015

¹⁰ (2015) 1 SCC 1

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concerned, there is considerable doubt whether the appellant is in possession of the acquired land or whether the respondents are in possession of the acquired land. It is not necessary for us to go into this issue at all. This is for the reason that one of the requirements mentioned in Section 24(2) of the Act is that the compensation should have either been paid to the land owner or should have been deposited in the Reference Court. The admitted position is that the compensation of Rs. 35,52,528/- was neither paid to the appellant nor was it deposited in the Reference Court. It was admittedly deposited in the Government Treasury of the State. The deposit was, apart from anything else, made only after the Act came into force and was perhaps with a view to get over the provisions of Section 24(2) of the Act and the prayer made in I.A. No. 4. Unfortunately, even the deposit of the compensation amount in the Reference Court on 26th June, 2014 does not come to the aid of the appellant under any circumstances and cannot be taken as "deemed payment".

21. Taking into account all the facts of the appeal as well as the consistent view taken by this Court on several occasions, we have no hesitation in coming to the conclusion that acquisition proceedings in so far as the appellant is concerned lapsed with the enactment of the Act.

22. The judgment and order passed by the High Court is consequently set aside and it is held that the acquisition proceedings initiated by the notifications dated 12th November, 1992 and 21st July, 1993 followed by the Award dated 22nd February, 1995 have lapsed only in so far as the appellant is concerned.

23. The appeal is allowed.