

**CASE COMMENT: INDORE DEVELOPMENT AUTHORITY V. MANOHAR LAL
SHARMA, 2020 SCC ONLINE SC 316**

Rishabh Nambiar*

INTRODUCTION

In India, land acquisition refers to the process by which the central government or a state government acquires private land for the purposes of industrialization, infrastructure development, or urbanization, and then compensates the affected landowners and arranges for their rehabilitation and resettlement. It is governed by the longstanding Land Acquisition Act, 1894 which has been in existence since British India.

In spite of its several poorly defined and exploitative elements that were often misapplied, the Act¹ was in operation until 2013. The Act of 1894 did not require the affected people's opinions to be taken into account, leaving them utterly powerless. It also did not require the purchasing party to bear any obligation for the lease settlement and rehabilitation of those who had been displaced. Furthermore, the wage paid for land was absurdly low. For the meager sums indicated in government documents, landowners were not even paid current market values. To make matters worse, there existed an urgency clause, which meant that under the guise of urgency, not even the most basic acquisition processes outlined in the Act were required. The phrase did not clarify what an urgent means was, therefore allowing such flagrant abuse.

To replace the statute of 1894, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act² was approved in 2013. On March 6, 2020, the landmark case of Indore Development Authority v. Manohar Lal³ answered questions about the interpretation of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. This case was heard by a five-judge bench consisting of Justice Arun Mishra, Justice Indira Banerjee, Justice Vineet Saran, Justice MR Shah, and Justice Ravindra Bhat. The court went on to say that Landowners who refused

*BBA LLB, THIRD YEAR, VIT CHENNAI.

¹Land Acquisition Act, 1894

² Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013

³ 2020 SCC OnLine SC 316

to accept compensation or sought reference for greater compensation could not claim that the acquisition procedures had lapsed under Section 24(2)⁴ of the Land Acquisition Act, 2013.

BACKGROUND FACTS

The issue relating to the interpretation of section 24⁵ of the 2013 act was first listed on 6th March 2018 before the constitution bench in the Indore Development Authority vs. Shyam Verma⁶.

On April 2, 2019, a Constitution bench comprised of the then Chief Justice of India Justice Ranjan Gogoi, Justice Ramanna, Justice Chandrachud, Justice Deepak Gupta, and Justice Sanjiv Khanna was formed in the case of Indore Development Authority vs Manoharlal, which took cognizance of the case beforehand and asked the parties to formulate and suggest questions on which the Constitution bench is required. The landowners contended that purchases made under the Land Acquisition Act of 1894 had lapsed and that new procedures under the Land Acquisition Act of 2013 were required. After a few months, on November 6, 2019, in an unprecedented move, the pending issue before the existing constitution bench in Indore Development Authority vs. Manoharlal was listed before a newly formed Constitution bench comprised of J Arun Mishra, J Indira Banerjee, J Vineet Saran, J Shah, and J Ravindra Bhat.

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The parties formulated the following questions:

1. What does the term "paid"/"tender" imply in Section 24 of the Act, 2013 and Section 31 of the Land Acquisition Act, LA (Act of 1894)? Whether failure to deposit compensation in court under Section 31(2)⁷ of the Act of 1894 leads to the lapse of acquisition under Section 24(2) of the Act of 2013. What are the consequences of failing to deposit in court, particularly where compensation has been offered and declined under sections 31(1)⁸ of the Act of 1894 and 24(2) of the Act of 2013? Is it possible for such people to profit from their wrongdoings once they refuse?

⁴ Land Acquisition Act, 2013, s 24(2)

⁵ Land Acquisition Act, 2013, s 24

⁶ 2018 4 SCC 405

⁷ Land Acquisition Act, 1894, s 31(2)

⁸ Land Acquisition Act, 1894, s 31(1)

2. Should the term “or” in Section 24(2) of the Act of 2013 be understood as conjunctive or disjunctive?
3. What is the actual meaning of Section 24(2) of the Act of 2013's Land Acquisition Act's way of taking possession and the true meaning of the term if physical possession of the land has not been taken?
4. Is it necessary to exclude the time period covered by an interim order of a court in land acquisition proceedings from the application of Section 24(2) of the Act of 2013?
5. Whether Section 24 of the Act of 2013 revives barred and stale claims? In addition, questions of per incuriam and other incidental questions are also to be considered.

DECISION

The court decided that if a person is offered compensation under Section 31(1) of the Land Acquisition Act, 1894, he cannot argue that the acquisition has expired under Section 24(2) owing to non-payment or non-deposit of compensation in court. By presenting the money under Section 31(1), the responsibility to pay is fulfilled. Similarly, Under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, landowners who refused to accept compensation or sought a referral for greater compensation cannot argue that the acquisition procedures had lapsed.

To commence lapsing procedures, both of the conditions specified in section 24(2) must be met. The disjunctive "or" in section 24 is to be interpreted as "nor" or "and", implying that in order for a land acquisition action to expire under section 24(2), actual possession should not have been obtained and no compensation should have been paid. The reason prescribed by the court is that when two negative acts join a phrase with a disjunctive "or," it must be understood as an adjunctive "and."

The Bench also held that the provisions of Section 24(2), which provide for a deemed lapse of proceedings, apply in cases where authorities failed to take possession and pay compensation for five years or more before the 2013 Act came into force, in a land acquisition proceeding pending with the authority concerned as of January 1, 2014. The duration of any court-issued interim orders must be deducted from the five-year calculation.

Section 24(2) of the 2013 Act does not create a new cause of action to challenge the legitimacy of completed land acquisition processes. Section 24 applies to any case that is continuing on the date of the 2013 Act's enforcement, which is January 1, 2014. It does not revive stale and time-barred claims, nor does it reopen concluded proceedings, nor does it allow landowners to challenge the legality of the mode of taking possession in order to reopen proceedings or the mode of depositing compensation in the treasury rather than in court in order to invalidate acquisition.

