AFR
Reserved

2025:AHC:158482-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 20190 of 2024

Ashok Kumar And Another ….. Petitioners(s)

Versus

State Of Up And 3 Others ….. Respondents(s)

Counsel for Petitioners(s)	:	Abhijeet Mukherji,Rajesh Mishra
Counsel for Respondent(s)	:	C.S.C.,Jagannath Maurya,Rajeshwar Tripathi,Shiv Prakash Gupta

AND

WRIT - C No. - 32858 of 2024

Laxman And 8 Others ….. Petitioners(s)

Versus

State Of Up And 3 Others ….. Respondents(s)

Counsel for Petitioners(s)	:	Abhishek Srivastava,Raghav Dev Garg,Rajesh Mishra
Counsel for Respondent(s)	:	Ashok Kumar Pandey,C.S.C.,Rajeshwar Tripathi,Shiv Prakash Gupta

AND

WRIT - C No. - 16299 of 2023

Virendra Kumar And 10 Others ….. Petitioners(s)

Versus

State Of Up And 3 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Abhijeet Mukherji,Rajesh Mishra
Counsel for Respondent(s)	:	Jagannath Maurya,Rajeshwar Tripathi,Shiv Prakash Gupta

Court No. - 29

HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE VINOD DIWAKAR, J.

(Per: Mahesh Chandra Tripathi, J.)

1. Heard Shri Rajesh Mishra and Shri Abhijeet Mukherji, learned counsels for the petitioners, Shri Devesh Vikram and Shri Shuresh Singh, learned Additional Chief Standing Counsels and Shri Fuzail Ahmad Ansari, learned Standing Counsel for the State-respondents and Shri M.C. Chaturvedi, learned Senior Advocate assisted by Shri J.N. Maurya and Shri Shiv Prakash Gupta, learned counsels for the respondent - Meerut Development Authority.

2. Since all the aforesaid writ petitions involve a common legal issue concerning the applicability of Section 24(2) and Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and with the consent of learned counsel for the parties, the petitions have been clubbed together, heard analogously, and are being disposed of by this common judgment.

3.1 The Writ-C No. 20190 of 2023 has been filed**,** praying *inter alia* seeking issue a writ, order or direction in the nature of Mandamus commanding respondent Nos. 1 to 3 to return and re-convey the petitioners' land ad-measuring 0.2530 hectares, comprised in Khasra No. 708, situated at Village Abdullapur, Pargana and Tehsil Meerut, which was earlier sought to be acquired for the project of the Meerut Development Authority[1], namely 'Ganga Nagar Awasiya Vyasayik

1 MDA

Yojana', in terms of Section 48 of the Land Acquisition Act, 1894 and the corresponding Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[2]; and further, to de-notify the said land as the acquisition proceedings initiated through notifications dated 01.02.1990 under Section 4(1) and 07.03.1990 under Section 6 of the Land Acquisition Act, 1894[3] have lapsed under Section 24(2) of the Act of 2013; and in the alternative, to consider and decide the petitioners' representation dated 30.01.2018 (Annexure No. 11 to this writ petition) regarding reversion and return of the land, after affording them due opportunity of hearing, within a stipulated period of time.

3.2 Similarly, WRIT - C No. - 32858 of 2024 has been filed seeking a direction in the nature of Mandamus commanding respondent Nos. 1 to 3 to return and re-convey the petitioners' land ad-measuring 0.8760 hectares, comprised in Khasra No. 770, situated at Village Abdullapur, Pargana and Tehsil Meerut, which was earlier sought to be acquired for the project of the Meerut Development Authority, namely 'Ganga Nagar Awasiya Vyasayik Yojana', in terms of Section 48 of the Land Acquisition Act, 1894 and the corresponding Section 101 of the Act, 2013; and further, to de-notify the said land as the acquisition proceedings initiated through notifications dated 01.02.1990 under Section 4(1)/ 17(4) and 07.03.1990 under Section 6/ 17(1) of the Act, 1894 have lapsed under Section 24(2) of the Act of 2013; and in the alternative, to consider and decide the petitioners' claim for reversion and return of the land, in the same manner as was done for other tenure holders through Government notifications dated 29.12.2016 and 10.03.2017, after affording due opportunity of hearing, within a stipulated period of time.

3.3 Similarly, WRIT-C No.16299 of 2023 has been filed seeking a direction in the nature of Mandamus commanding respondent Nos. 1 to 3 to return and re-convey the petitioners' land admeasuring 5.703

2 Act, 2013
3 Act, 1894

hectares, comprised in Khasra Nos. 740, 749, 750, 801, 781, 763, 501 and 772, situated at Village Abdullapur, Pargana and Tehsil Meerut, which was earlier sought to be acquired for the project of the Meerut Development Authority, namely 'Ganga Nagar Awasiya Vyasayik Yojana', in terms of Section 48 of the Land Acquisition Act, 1894 and the corresponding Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and further, to de-notify the said land as the acquisition proceedings initiated through notifications dated 01.02.1990 under Section 4(1) and 07.03.1990 under Section 6 of the Act, 1894 have lapsed under Section 24(2) of the Act of 2013; and in the alternative, to consider and decide the petitioners' representation dated 30.01.2018 (Annexure No. 11 to this writ petition) regarding reversion and return of the land, after affording them due opportunity of hearing, within a stipulated period of time.

A. FACTUAL MATRIX:

4. The record reveals that, vide notification dated 27.01.1990 issued under Sections 4(1) and 17(4) of the Act, 1894, the State Government of Uttar Pradesh proposed to acquire 246.931 acres of land situated in Village Abdullapur, Pargana, Tehsil and District Meerut. Thereafter, on 01.02.1990, a declaration under Sections 6 and 17(1) of the Act, 1894 was published in the Official Gazette. Subsequently, another notification under Section 6 of the Act, 1894, was issued on 07.03.1990, which was also published in two local newspapers on 10.03.1990.

4.1 Since the acquisition was stated to be of an urgent nature, the State invoked the provisions of Section 17(1) and Section 17(4) of the Act, 1894, thereby dispensing with the inquiry contemplated under Section 5-A of the Act, 1894. The acquisition was purportedly undertaken for the construction of residential and commercial buildings under a planned development scheme, namely 'Ganga Nagar Awasiya Vyasayik Yojana', to be executed by the MDA. Pursuant thereto, notices under Section 9 of

the Act, 1894 were issued, in response to which certain tenure-holders submitted their objections.

4.2 On 17.03.1992, the Special Land Acquisition Officer passed an award. As the urgency clause under Section 17(1) had been invoked, possession of the land was taken in phases, i.e. on 18.06.1998 (31 acres), 12.04.1999 (11 acres), 24.05.2002 (200 acres), and 30.12.2010 (4.931 acres). The records indicate that the acquisition affected 223 tenure-holders, out of whom more than 80% (181 tenure-holders) accepted the compensation. However, certain tenure-holders (including petitioners' predecessors-in-interest), being aggrieved with the quantum of compensation, preferred Land Acquisition References (LARs). In total, 84 LARs were filed.

4.3 The record further indicates that the MDA, by its resolution dated 17.09.1997, initially resolved to withdraw from the acquisition proceedings in respect of the land, except for an extent of 42.018 acres. However, by a subsequent resolution dated 15.03.2002, the MDA rescinded its earlier decision and resolved to proceed with the development of the entire acquired land of Ganga Nagar Colony, noting that substantial investments had already been made towards the construction of roads, sewerage, and other civic amenities.

4.4 Aggrieved by the revised proposal of the MDA dated 15.03.2002, four writ petitions came to be filed before this Court by the original tenure-holders, wherein, the sole relief sought was for a direction to the MDA to give effect to its earlier resolution dated 17.09.1997, which the State Government had declined. One such petition was Writ-C No. 7748 of 2002 (*Bimal Chand Jain and others vs. State of U.P. and others*). All the writ petitions were decided by a common judgment and order dated 02.12.2009, directing the respondent- MDA to act upon its resolution dated 17.09.1997. For ready reference, the judgment dated 02.12.2009 passed in Writ-C No. 7748 of 2002 *(Bimal Chand Jain and others vs. State of U.P. and others)* is reproduced hereinbelow:

> *"In this petition, the original owners are Bimal Chand Jain, Sudarshan Kumar Jain and Sudesh Kumar Jain, petitioners no.1 to 3 respectively and Vivek Jain and Smt. Asha Jain (petitioner nos.4/1 and 4/2 respectively), substituted after the death of original owner petitioner no.4 Subhash Kumar Jain. They have not pressed other reliefs, except the relief seeking a writ of mandamus to command the Meerut Development Authority, respondent no.4 to press the resolution dated 14.5.02, which has been rejected by the Government. A perusal of the rejection order reveals that rejection is not based for other reasons, except that the land proposed to be released under Section 48 the Land Acquisition Act, has been thrust upon the development authority to sell it out so that its financial position is improved. This is no reason. The acquisition under the Land Acquisition Act is made for the public purpose if needed. No doubt the town plan development of the council is a public purpose done by the development authority but the development authority when itself says that it is not needed, then the condition of acquisition is not fulfilled as contained in the Land Acquisition Act. Therefore reason of rejection is not germane to the provisions of the Land Acquisition Act. The Development Authority is directed to press its resolution if the authority is not in need of the said land. The petition is accordingly disposed of."*

4.5 Assailing the judgment and order dated 02.12.2009, three Civil Appeals, being Civil Appeal Nos. 2944 of 2013, 2945 of 2013, and 2947 of 2013 were preferred before the Hon'ble Supreme Court. By judgment dated 08.04.2013, the said appeals were dismissed. While doing so, the Supreme Court took note of the reliefs sought by the tenure-holders before the writ court, which are extracted herein below:

> *"i. Issue a writ, order or direction in the nature of mandamus commanding the respondent no.1 to accept the proposal for withdrawing from acquisition in view of the resolution dated 17.9.97 submitted by the Meerut Development Authority at the earliest within a period to be fixed by this Hon'ble Court.*
>
> *ii. Issue a writ, order or direction in the nature of certiorari quashing the entire land acquisition proceedings in pursuance of the notification u/s 4 dated 27.1.1990 and declaration u/s 6 of the Act dated 7.3.90.*
>
> *ii-a. Issue a writ, order or direction in the nature of certiorari quashing the order/decision communicated by letter dated 24.08.2002 (Annexure-16 to the writ petition).*
>
> *iii. Issue a writ, order or direction in the nature of mandamus commanding the respondents not to dispossess the petitioners from their respective lands forcibly in pursuance of the acquisition for declaration was issued u/s 6 of the Act on 6.3.90.*
>
> *iv. Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay the damages for financial loss, mental agony and pain to the petitioners in view of section 48(2) of the Act.*
>
> *v. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

vi. Award cost of the writ petition to the petitioners."

4.6 The Supreme Court, while adjudicating the appeals, summarized the undisputed facts in paragraph 10 of its judgment dated 08.04.2013, which is reproduced herein below for ready reference:

> *"10. Some of the important facts which are not in dispute can be summarized as under:*
>
> *(i) Notification under Section 4 and Declaration under Section 6 were issued for the acquisition of 246.931 acres of the land for the purpose of construction of residential/commercial building under the planned Development Scheme in the District of Meerut by the MDA;*
>
> *(ii) Inquiry under Section 5A of the Act was dispensed with since provision of Section 17(1)&(4) was invoked;*
>
> *(iii) In response to the notice under Section 9(1) of the Act, the appellant-land owners filed their objections, and finally, the award under Section 11 of the Act was passed on 17.3.1992 by the Special Land Acquisition Officer; and*
>
> *(iv) As requested by the appellants and other land owners, reference under Section 18 of the Act was made on 22.9.1997."*

4.7 The Supreme Court, while dealing with the aforesaid category of cases, also took into consideration the counter affidavit filed by the MDA, wherein it was averred that the land in question had been acquired for the Ganga Nagar Housing Extension Scheme, keeping in view the acute need for housing accommodation and with a view to preventing unregulated and unplanned construction. It was further stated that notices under Section 9(1) of the Act, 1894, were issued, inviting objections, and upon completion of the prescribed procedure, an award came to be passed on 17.03.1992.

4.8 The Supreme Court also took note of the fact that, following the said award, a sum of Rs.5.32 crores, out of the total compensation amount of Rs.5.51 crores, was deposited with SLO. The appellants had preferred reference applications in the year 2002 for enhancement of compensation. It was further noted that possession of the acquired land was taken by the State Government and handed over to the MDA in the year 2002. Out of the total acquired land measuring 246 acres, approximately 125 acres had already been allotted for residential and institutional purposes as per the applicable Master Plan.

4.9 The MDA had also placed on record in the said proceeding that it had incurred an expenditure of approximately Rs.21 crores since 2002 toward development activities, including the construction of overhead water tanks, roads, sewage treatment plants, and other essential civic infrastructure. The earlier request for withdrawal of acquisition, as per the resolution dated 17.09.1997, had been rescinded by a fresh resolution dated 15.03.2002, whereby the MDA resolved to proceed with the development of the entire acquired land as Ganga Nagar Colony. The remaining land is also under development, with considerable investment made in the construction of roads, sewerage systems, and other civic amenities.

4.10 While examining the factual matrix of the case, the Supreme Court also addressed the core issue that arose for consideration, namely: whether merely on the basis of internal correspondence between the MDA and the State Government, and in light of the MDA's resolution dated 17.09.1997 to seek withdrawal of acquisition subject to approval of the State Government, a writ of mandamus could be issued directing the State or the MDA to denotify or de-requisition the land that had already been acquired following due process of law and in respect of which an award had been passed by the Special Land Acquisition Officer. This issue was considered and answered by the Supreme Court in paragraphs 16, 17, 18 and 19 of its judgment dated 08.04.2013.

4.11 The aforesaid three civil appeals were dismissed by the Supreme Court, holding that since the urgency clause had been invoked and the land had vested in the State free from all encumbrances, it could not be released subsequently. Meanwhile, the predecessors-in-interest of the petitioners challenged the acquisition proceedings by filing Writ-C No. 30346 of 2013 *(Baij Nath and 80 others vs. State of U.P. and 2 others)*, primarily on the ground that possession of the acquired land had not been taken by the State Government or the MDA. The Division Bench of this Court, while considering the aforesaid contention, also took note of the judgment and order dated 08.04.2013 passed by the Supreme Court,

and accordingly dismissed Writ-C No. 30346 of 2013 by its order dated 28.05.2013.

4.12 The record further reveals that the State Government had issued notifications dated 22.12.2016 and 10.03.2017, whereby certain plots were de-notified. Relying upon these notifications, all the aforesaid three writ petitions have been filed, seeking the relief as mentioned hereinabove.

C. SUBMISSIONS ON BEHALF OF PETITIONERS:

5. Shri Rajesh Mishra and Shri Abhijeet Mukherji, learned counsels for the petitioners vehemently submitted that the land acquisition proceedings initiated through notification dated 01.02.1990 under Section 4/ 17(4) and subsequent notification dated 07.03.1990 under Section 6 17(1) of the Act, 1894, have lapsed in view of the provisions contained in Section 24(2) of the Act, 2013. It has been argued that the essential preconditions under the said section, that physical possession must be taken and compensation must be paid, have not been met in the instant case even after a lapse of more than three decades from the date of notification.

5.1 It is contended that although an award was declared on 17.03.1992, no compensation was paid to the petitioners or their predecessors-in-interest, nor was any attempt made to deposit the same in their names. More importantly, the physical possession of the land in question was never taken over by the authorities. Learned counsels have referred to a series of letters exchanged between the MDA and other authorities, particularly the letters dated 21.05.1998, 31.08.1998, and 06.06.2000, which clearly record that the land in question was never taken into possession by the authority and that the acquisition was not being pursued for a substantial area measuring 204.912 acres. These facts have remained uncontested on record and, therefore, conclusively establish that the acquisition proceedings qua the land of the petitioners have lapsed by operation of law.

5.2 It is further submitted that the petitioners stand on the same legal and factual footing as the landowners whose lands have already been released by the State Government through notification dated 10.03.2017 and affirmed by the order dated 24.04.2017. The principle of parity and non-discrimination mandates that the petitioners be treated equally, especially when their Khasra numbers are adjacent to or similarly situated as those already de-notified. Learned counsels point out that several writ petitions, particularly Writ-C No.16299 of 2023, arising out of the same acquisition proceedings have been entertained by this Court and status quo orders granted. Therefore, denial of similar relief to the petitioners would amount to hostile discrimination, arbitrariness and in violation of Article 14 of the Constitution.

5.3 It is also urged that the attempt of the MDA to now forcibly dispossess the petitioners, despite their continued possession and absence of compensation, is not only without the authority of law but also contrary to the spirit of the Act, 2013. The photographs filed with the petition, also demonstrate the continued possession and cultivation by the petitioners, and the complete absence of any development or governmental activity over the land in question. The learned counsel has also referred to the legal position that when possession is not taken, the State can withdraw from acquisition under Section 48 of the Act, 1894 now Section 101 of the Act, 2013 and the tenure holders would be entitled to restoration of land and compensation for damages.

5.4 Finally, it is submitted that the petitioners have a right to be heard and their land cannot be retained by the MDA and the acquisition proceedings would have lapsed by operation of law. The conduct of the development authority, in requesting compensation in 2007 without even identifying the relevant Khasras, and then suppressing its own failed representations before the State Government, is reflective of *mala-fides*. The petitioners are poor agriculturists with no other source of livelihood and cannot be subjected to arbitrary dispossession. Therefore, the

learned counsels pray that the Court declare the acquisition to have lapsed in terms of Section 24(2) of the Act, 2013.

5.5 In support of their submissions, learned counsels for the petitioners have placed heavy reliance on the judgment of Supreme Court passed in ***Hari Ram & Anr vs State Of Haryana & Ors***[4] stating that similarly situated land owners should not be discriminated as it is grossly against the constitutional theme enshrined under Article 14 of the Constitution of India. Secondly, he has placed reliance on the judgment passed by the Supreme Court in the case of ***Shyam Verma versus Land Aquisition Officer***[5] holding that the urgency clause shouldn't be ordinary invoked as it would tantamount to misuse of the provision, moreover if the acquisition proceedings couldn't be concluded at the earliest it should be deemed as lapsed.

D. SUBMISSIONS ON BEHALF OF RESPONDENT - MERRUT DEVELOPMENT AUTHORITY (MDA):

6. Shri M.C. Chaturvedi, learned Senior Advocate assisted by Shri J.N. Maurya and Shri Shiv Prakash Gupta, learned counsel for the respondent - MDA submits that these writ petitions are the second one filed on the same cause of action, as a previous writ petition (Writ-C No.30346 of 2013) filed by the petitioners' predecessors-in-interest and others challenging the same acquisition was dismissed by this Court on 28.05.2013, and the same was upheld by the Supreme Court in Civil Appeal Nos. 2944, 2945 and 2947, all of 2013. The acquisition of the said land was undertaken under notifications dated 27.01.1990 and 07.03.1990, followed by an award dated 17.03.1992, with possession taken on various dates, and compensation deposited in the court on 13.12.2007 under Section 31(2) of the 1894 Act. Numerous litigations related to the same acquisition have been decided against the tenure holders by both the High Court and the Supreme Court. Furthermore, more than 80% of affected tenure holders accepted compensation, and MDA's name was duly mutated in revenue records. Substantial

4 **2010 (3) SCC 621**
5 **2024 SCC Online MP 1834**

development has taken place on the land in question, including construction of roads (18m and 36m), drainage, sewage, and electricity infrastructure.

6.1 Learned Senior Counsel further submits that the petitioners' predecessors-in-interest had also filed Land Acquisition Reference (LARs) Application solely for enhancement of compensation, not for return of land. The MDA Board's earlier resolution (dated 17.09.1997) to withdraw from part of the acquisition was later rescinded by resolution dated 15.03.2002, and multiple petitions challenging this were dismissed by the Supreme Court. The petitioners' reliance on government de-notification orders dated 22.12.2016 and 10.03.2017 is misplaced in light of the Constitution Bench ruling in ***Indore Development Authority vs. Manoharlal and others***[6], which clarified that acquisition does not lapse if either compensation has been paid or possession taken. Whereas in this case, both have occurred. Learned Senior Advocate submits that the petitions are barred by principles of *res judicata* and delay, lack merit under the amended interpretation of Section 24(2), and should be dismissed accordingly.

E. SUBMISSIONS ON BEHALF OF STATE RESPONDENTS:

7. Shri Devesh Vikram and Shri Suresh Singh, learned Additional Chief Standing Counsels and Shri Fuzail Ahmad Ansari, learned Standing Counsel for the State-respondents submit that the acquisition proceedings were completed in accordance with law and cannot be deemed to have lapsed under Section 24(2) of the Act, 2013. The chronological sequence of events establishes beyond doubt that the Award was duly passed on 17.3.1992 by the competent authority, physical possession of the land in question was handed over to the Authority on 24.5.2002, and the compensation amount for affected tenure holders who had not received compensation was deposited with the Court through letter no. 1451 dated 13.12.2007, alongwith treasury cheque no. 58194 dated 7.12.2017 for Rs. 2,46,05,733/- under Section

6 **2020 (8) SCC 129**

31(2) of the Act, 1894. It is further submitted that the majority of the tenure holders had already received their compensation, and for those who had not received the same on account of their pressing LARs, proper notices were issued and the compensation amount was duly deposited with the Court in accordance with the provisions of law.

7.1 The learned Additional Chief Standing Counsels emphasizes that the petitioners' reliance on earlier de-notifications dated 22.12.2016 and 10.3.2017 is fundamentally flawed due to subsequent judicial developments. These de-notifications were issued based on the then prevailing interpretation of Section 24(2) of the Act, 2013 as laid down in ***Pune Municipal Corporation vs. Harak Chand Misrimal Solanki***[7]. However, this interpretation has been categorically overruled by a Constitution Bench of Five Judges of the Supreme Court in ***Indore Development Authority (supra)***. In the Indore Development Authority case, the Supreme Court specifically observed that "the decision rendered in ***Pune Municipal Corporation (supra)*** is hereby overruled and all other decisions in which Pune Municipal Corporation has been followed, are also overruled. This judicial development completely changes the legal landscape and renders the petitioners' contentions untenable.

7.2 The learned Additional Chief Standing Counsels further submits that Section 24(2) of the Act, 2013 provides that "*in case the possession has been taken but the compensation has not been paid before the commencement of the Act, 2013, the proceedings shall be deemed to be lapsed.*" However, this provision is not applicable to the facts and circumstances of the present case. The acquisition proceedings in the present case were completed much before the commencement of the Act, 2013. The Award was passed on 17.3.1992, possession was taken on 24.5.2002, and compensation was paid to the majority of affected persons. For those who had not received compensation, the same was deposited with the Court under Section 31(2) of the Act, 1894, after due

---

7 **(2014) 3 SCC 183**

notices. Following the Supreme Court's decision in ***Indore Development Authority (supra)***, the interpretation of Section 24(2) of the Act, 2023 has been clarified, and it cannot be said that land acquisition proceedings in respect of the petitioners shall be deemed to have lapsed merely because some compensation amount were deposited with the Court rather than being directly paid to individual tenure holders, moreover, keeping in view that proceedings under the LARs were preferred by some tenure holders and the predecessors-in-interest of the petitioners which are pending adjudication.

7.3 It is further submitted that the office order dated 24.4.2017 (Annexure no. 8 to writ petition) passed by the then Additional Chief Secretary, Housing & Urban Planning, Government of U.P., while rejecting the review application dated 28.03.2017 submitted by the MDA for the review of earlier de-notification dated 10.03.2017, was in consonance to the case of *Sitaram vs. State of Haryana passed by the Supreme Court in SLP no. 534 and Civil Appeal no. 5811 of 2015 (Delhi Development Authority vs. Sukhbir Singh)*. In both these cases, reference was made to the case decided by the Supreme Court in ***Pune Municipal Corporation (supra)***. However, they reiterated that the view taken in the Pune Municipal Corporation case has been overruled in the case of ***Indore Development Authority (supra).***

7.4 It is further emphasized that the present case is entirely distinguishable from those cases where lands were de-notified. The circumstances that led to the issuance of de-notifications dated 22.12.2016 and 10.3.2017 were based on the then-prevailing legal interpretation under *Pune Municipal Corporation case (supra),* which has since been overruled. The petitioners cannot claim similar treatment when the factual and legal matrix is entirely different. The key distinguishing factors include the fact that the Award was duly passed on 17.3.1992 and the physical possession was handed over to the authority on 24.05.2002, majority of tenure holders received compensation, remaining compensation was deposited with the Court under proper

legal provisions, and the acquisition process was completed in its entirety. Moreover, the Supreme Court already approved the acquisition. Therefore, it is wrong to state that the circumstances which led to issuing of de-notifications on 22.12.2016 and 10.3.2017 are similar to that of the present case.

7.5 It is also argued that as far as the compensation is concerned, the learned counsel has provided comprehensive information to the same which adequately demonstrates the completeness of the acquisition process. The MDA initially deposited a sum of Rs.5,32,00,000/- through cheque bearing no.J088699 dated 5.3.1992 issued by Allahabad Bank and intimated by letter no. 98 dated 5.3.1992 of the Vice Chairman of the Authority. Additionally, Rs.19,24,118.02 (out of total Rs.32,73,152.08) was deposited through cheque no. 279455 dated 24.10.2001 of Allahabad Bank, deposited on 2.11.2001. It is clarified that this cheque amount included compensation for three Yojanas, including Rs.19,24,118.02 for Ganga Nagar Yojana. The remaining compensation amount was deposited with the Court vide letter no. 1451 dated 13.12.2007, ensuring that all affected parties had access to their rightful compensation. These deposits demonstrate that the acquisition process was completed with due regard to the rights of all affected tenure holders.

7.6 In order to provide complete transparency the authority has brought on record certain administrative decisions too. The decision to release 204.312 acres of land, which was taken in the meeting of the MDA Board on 30.03.1998, was subsequently cancelled in the meeting of the MDA Board on 15.3.2002. This demonstrates the Authority's commitment to retaining the acquired land for its intended public purpose and shows that all administrative actions were taken with proper deliberation and in accordance with the Authority's mandate.

7.7 The petitioners' allegations of discrimination and violation of Articles 14 and 21 of the Constitution of India are completely unfounded. The learned counsel submits that there has been no

discriminatory treatment, and all procedures have been followed in accordance with law. The fact that some other lands were de-notified does not create any legal right for the petitioners to claim similar treatment when the factual circumstances are entirely different. The State Government has not adopted any "pick-and-choose policy" as alleged by the petitioners. It is settled preposition of law that each case must be decided on its own merits and factual matrix, and the present case clearly establishes that the acquisition was completed in accordance with law much before the commencement of the Act, 2013.

7.8 The learned Additional Chief Standing Counsels further submits that the present writ petition suffers from the fatal defect of delay and laches. The petition has been filed after a lapse of approximately 11 years from the date of enforcement of the Act, 2013 (i.e., 1.1.2014). Furthermore, it is relevant to note that an earlier Writ-C No. 30346 of 2013 was dismissed on 25.08.2013, wherein petitioners' predecessors-in-interest were parties. More significantly, petitioners' predecessors-in-interest had preferred Land Acquisition References (LARs) for higher compensation under Section 18 of the Land Acquisition Act, 1894. Having participated in the acquisition proceedings and sought enhanced compensation, therefore it is not open to the the petitioners to now claim that the acquisition proceedings had lapsed under Section 24(2) of the Act, 2013. This amounts to taking contradictory stands and seeking to approbate and reprobate simultaneously, which is not permissible in law.

7.9 Lastly, it is submitted by learned Additional Chief Standing Counsels that the acquisition proceedings were completed in accordance with law, and there is no question of the same having lapsed under Section 24(2) of the Act, 2013 or they are entitled for any relief under Section 101 of the act, 2013. The interpretation of Section 24(2) as laid down by the Supreme Court in ***Indore Development Authority (supra)*** is directly applicable to the facts and circumstances of the present case. The petitioners cannot claim benefit of de-notifications issued in other cases where the factual matrix was entirely different. The petition

suffers from delay, laches, and contradictory stands taken by the petitioners' predecessor, and there is no violation of Articles 14 and 21 of the Constitution of India. They submit that in view of the legal precedents, and settled position of law, all the aforementioned writ petitions are liable to be dismissed in the interest of justice.

F. DISCUSSION AND FINDINGS:

8. We have thoroughly considered the pleadings, rival submissions, and documentary material placed on record. The principal prayer of the petitioners seeking a declaration that the acquisition in respect of disputed land situated in Village Abdullapur, District Meerut, stands lapsed under Section 24(2) of the Act, 2013, is based on the twin assertions that neither compensation has been paid to the petitioners nor physical possession of the subject land has been taken by the acquiring body and the land may be de-notified from the acquisition under Section 101 of the Act, 2013.

8.1 The Supreme Court, while considering the aforementioned Civil Appeal Nos. 2944, 2945, and 2947 of 2013, vide its judgment dated 08.04.2013, summarized the factual matrix of the case. Notifications under Section 4/ 17(4) of the Act, 1894, and declaration under Section 6/ 17(1) of the Act, 1894 were issued for the construction of residential and commercial buildings under the planned development scheme in Meerut by the MDA. The total land involved was 246.93 acres. Admittedly, the urgency clauses under Sections 17(1) and 17(4) were invoked, and the inquiry under Section 5-A of the Act, 1894, was dispensed with. It was also an admitted position that notices under Section 9(1) of the Act had been issued to the landowners, some of whom filed objections, and finally, an award was prepared under Section 11 of the Act, 1894, on 17.03.1992 by the Special Land Acquisition Officer. The petitioners' predecessors-in-interest in the said proceedings, along with other landowners aggrieved by the quantum of compensation, preferred LARs under Section 18 of the Act, 1894, on 22.09.1997, which are stated to be

pending. The acquisition proceeding, which were travelled upto the Supreme Court in which the Hon'ble Supreme Court framed the core issue and answered the same in paragraphs 16, 17, 18, and 19 of its order dated 08.04.2013, which are reproduced herein below for ready reference:

> *"16. There is no dispute with regard to the settled proposition of law that once the land is acquired and mandatory requirements are complied with including possession having been taken the land vests in the State Government free from all encumbrances. Even if some unutilised land remains, it cannot be re-conveyed or re-assigned to the erstwhile owner by invoking the provisions of the Land Acquisition Act. This Court in the case of* ***Govt. of A.P. and Anr. vs. V. Syed Akbar AIR 2005 SC 492*** *held that :*
>
> *"It is neither debated nor disputed as regards the valid acquisition of the land in question under the provisions of the Land Acquisition Act and the possession of the land had been taken. By virtue of Section 16 of the Land Acquisition Act, the acquired land has vested absolutely in the Government free from all encumbrances. Under Section 48 of the Land Acquisition Act, Government could withdraw from the acquisition of any land of which possession has not been taken. In the instant case, even under Section 48, the Government could not withdraw from acquisition or to reconvey the said land to the respondent as the possession of the land had already been taken. The position of law is well settled. In State of Kerala and Ors. v. M. Bhaskaran Pillai & Anr. (1997) 5 SCC 432 para 4 of the said judgment reads: (SCC p. 433)*
>
> *"4. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting a higher value."*
>
> *17. In the case of* ***Satendra Prasad Jain & Ors. vs. State of U.P. and Ors.,*** *AIR 1993 SC 2517, a 3-Judge Bench of this Court after considering various provisions including Section 17 of the Act observed as under:*
>
> *"14. Ordinarily, the Government can take possession of the land proposed to be acquired only after an award of compensation in*

respect thereof has been made under Section 11. Upon the taking of possession the land vests in the Government, that is to say, the owner of the land loses to the Government the title to it. This is what Section 16 states. The provisions of Section 11-A are intended to benefit the land owner and ensure that the award is made within a period of two years from the date of the Section 6 declaration. In the ordinary case, therefore, when Government fails to make an award within two years of the declaration under Section 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11-A, lapse. When Section 17(1) is applied by reason of urgency, Government takes possession of the land prior to the making of the award under Section 11 and thereupon the owner is divested of the title to the land which is vested in the Government. Section 17(1) states so in unmistakable terms. Clearly, Section 11-A can have no application to cases of acquisitions under Section 17 because the lands have already vested in the Government and there is no provision in the said Act by which land statutorily vested in the Government can revert to the owner."

18. Indisputably, land in question was acquired by the State Government for the purpose of expansion of city i.e. construction of residential/commercial building under planned development scheme by the Meerut Development Authority and that major portion of the land has already been utilized by the Authority. Merely because some land was left at the relevant time, that does not give any right to the Authority to send proposal to the Government for release of the land in favour of the land owners. The impugned orders passed by the High Court directing the Authority to press the Resolution are absolutely unwarranted in law.

19. For the reasons aforesaid, there is no merit in these appeals which are accordingly dismissed."

8.2 The Supreme Court dismissed the aforesaid three civil appeals, holding that once the urgency clause was invoked and the possession were taken, thereafter, the land vested in the State free from all encumbrances, it could not be released. Meanwhile, the petitioners' predecessors again challenged the acquisition in *Writ-C No. 30346 of 2013 (Baij Nath & 80 others vs. State of U.P. & others)* on the ground that possession had not been taken. The Division Bench, considering the Supreme Court's judgment dated 08.04.2013, dismissed the writ petition on 28.05.2013. For ready reference, the order dated 28.05.2013 has been reproduced hereinbelow:

"Heard learned counsel for the petitioners and learned counsel appearing for the Meerut Development Authority.

Petitioners claim to be owners of different plots of land which were notified for the purposes of acquisition under the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') in the year 1990. The acquisition was for the purposes of a residential/commercial complex

under the planned development scheme by the Meerut Development Authority and the provisions of Section 17(1) and (4) of the Act were also invoked. The award was made on 17th March, 1992 in respect of approximately 246.93 acres of land situated at village Abdullapur, Pargana and Tehsil and District Meerut.

The petitioners claim that possession of the acquired land has not been taken by the State or the Meerut Development Authority and, therefore, the delay is immaterial for challenging the acquisition proceeding indicated above. According to learned counsel for the petitioners, it was a case of misuse of powers under Section 17 of the Act and the State Government erred in not releasing the land of the petitioners in the year 2002 when the Meerut Development Authority had itself indicated in its resolution dated 17th September, 1997 that it was in a poor financial health and was unable to utilize the land.

Lot of developments appear to have taken place in the matter since 2002. Learned counsel for the Meerut Development Authority has placed before us copy of judgment of the Apex Court dated 8th April, 2013 passed in Civil Appeal No.2944 of 2013 and three other related Civil Appeals. That judgment shows that the Apex Court considered the latest factual position disclosed by the Meerut Development Authority with respect to the same very scheme for which approximately 246 acres of land was acquired. ***In that case, the appellants before the Apex Court wanted the land to be released from acquisition and this Court had passed an order dated 2nd December, 2009 extracted in paragraph-7 of the judgment of the Apex Court disposing of the writ petitions only with a direction to the Meerut Development Authority to press its resolution dated 17th September, 1997 if the Authority was not in need of the said land. The Apex Court considered the defence of the Meerut Development Authority that possession of the land so acquired was taken by the State and delivered to Meerut Development Authority in 2002. Further stand taken by the Meerut Development Authority was that out of the 246 acres of land, approximately 125 acres of land has already been allotted for residential and institutional use as per the Master Plan and that it had already spent Rs.21 crores for development since 2002 which included construction of overhead tanks, roads, sewage treatment plant etc. Meerut Development Authority further disclosed to the Apex Court that it had withdrawn its earlier resolution of 1997 through a fresh resolution on 15th March, 2002 for development of the entire acquired land as Ganga Nagar Colony.***

The Apex Court considered the issue whether, in the facts of the case, a mandamus could be issued directing the State or the Meerut Development Authority to withdraw from the acquisition of the land which was acquired after following the due process of law and an award to that effect had been made by the Special Land Acquisition Officer. The Apex Court then after taking note of some precedents for the proposition that once the land is acquired and mandatory requirements are complied with including taking of possession, the land vests in the State Government free from all encumbrances observed that even if some land remains un-utilised, it cannot re-conveyed or re-assigned to the erstwhile owner by invoking the provisions of the Act and in the concluding part of the judgment, in paragraph-18, the Apex Court recorded as follows:-

"Indisputably, land in question was acquired by the State Government for the purpose of expansion of city i.e. construction of

residential/commercial building under planned development scheme by the Meerut Development Authority and that major portion of the land has already been utilized by the Authority. Merely because some land was left at the relevant time, that does not give any right to the Authority to send proposal to the Government for release of the land in favour of the land owners. The impugned orders passed by the High Court directing the Authority to press the Resolution are absolutely unwarranted in law."

No doubt the prayer and issues raised before us through the present writ petition are different but in the light of findings given by the Apex Court that the land was acquired by the State for the purposes of expansion of city and that major portion of the land has already been utilized by the Authority and considering that this writ petition has been preferred in 2013 after a considerable delay of about 23 years without any satisfactory explanation, we are not persuaded to interfere with the land acquisition proceeding.

The writ petition is, therefore, dismissed."

(Emphasis supplied)

8.3 At the outset, the court notes that the very foundation of the petition rests upon a disputed factual matrix. While the petitioners assert that possession of the land was never taken and no compensation was paid, the respondents, both the State and the MDA, have placed on record specific details showing that the possession was in fact taken on 24.05.2002 and compensation was deposited in Court under Section 31(2) of the Act, 1894, on 13.12.2007. Moreover, the respondents have categorically stated that the development work pursuant to the acquisition had already been carried out, including construction of roads and public infrastructure on the land in question. The MDA's layout plan clearly indicates that a portion of disputed land has been earmarked for a road and a community centre. These assertions are corroborated by revenue entries reflecting mutation of MDA's name, and by the fact that more than 80% of affected tenure holders have accepted compensation under the same acquisition proceedings.

8.4 The Court further finds that the petition suffers from the vice of *Constructive res judicata*. The petitioners' predecessors-in-interest, were parties in *Writ Petition No.30346 of 2013*, who had challenged the very same acquisition proceedings on broadly identical grounds. That writ petition was dismissed by this Court on 28.05.2013. Significantly, the said petitioners had also pursued proceedings under Section 18 of the

1894 Act through Land Acquisition References, seeking enhancement of compensation, thereby evidencing acknowledgement of the acquisition.

8.5 For proper appreciation of facts its worthy to examine the concept of *res judicata* and *constructive res judicata*. The phrase '*Nemo Debet Lis Vexari Pro Una Et Eadem Causa'* and '*Reipublicae Ut Sit Finis Litium'* roughly translates as 'no one should be twice vexed for the same cause' and 'it is in the interest of the state that there be an end to litigation'. Lucidly an adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had it decided as incidental to or essentially connected with the subject-matter of the litigation and every matter coming within the legislative purview of the original action both in respect of the matters of claim or defence. It is true that where a matter has been constructively in issue it cannot be said to have been actually heard and decided. It could only be deemed to have been heard and decided. The words 'might' and 'ought' have wide amplitude. The word 'might' conveys the idea of possibility of joining all grounds of attack or defence 'ought' carries the idea of propriety of so joining. An alternative basis on which a claim can be sustained should be set up in any suit to enforce the claim. When it is not set up, the basis omitted in the prior vexation should not be allowed to subsequently agitated. A similar view was taken by the Apex Court in the case of ***K. Arumuga Velaiah Vs. P.R. Ramasamy and Ors. 2022 INSC 103*** wherein the court while denouncing the practice of surfacing new grounds and facts when previous litigation has concluded, held:

> *"30. In this context, following judgments could be cited with regard to the operation of the principles of res judicata in respect to the previous proceeding and judgment:*
>
> *a) In Mathura Prasad Sarjoo Jaiswal v. Dossibai N.B. Jeejeebhoy (MANU/SC/0420/1970 : AIR 1971 SC 2355), it was observed as under:*
>
> *10. It is true that in determining the application of the Rule of res judicata the Court is not concerned with the correctness or otherwise of the earlier judgment. The matter in issue, if it is one purely of fact, decided in the earlier proceeding by a competent Court must in a subsequent litigation between the same parties be regarded as finally*

decided and cannot be reopened. A mixed question of law and fact determined in the earlier proceeding between the same parties may not, for the same reason, be questioned in a subsequent proceeding between the same parties. But, where the decision is on a question of law i.e. the interpretation of a statute, it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same, for the expression "the matter in issue" in Section 11 of the Code of Civil Procedure means the right litigated between the parties i.e. the facts on which the right is claimed or denied and the law applicable to the determination of that issue. Where, however, the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the Rule of res judicata a party affected by the decision will not be precluded from challenging the validity of that order under the Rule of res judicata, for a Rule of procedure cannot supersede the law of the land.

b) In Mohanlal Goenka v. Benoy Kishna Mukherjee (MANU/SC/0008/1952 : AIR 1953 SC 65), the second round of litigation was admittedly in respect of same property and between the same parties, after the earlier litigation had attained finality even up to the stage of execution. It was held that later on the judgment debtor was precluded from raising the plea of jurisdiction in view of principles of constructive res judicata. In Paragraph 23 it was as under:

23. There is ample authority for the proposition that even an erroneous decision on a question of law operates as 'res judicata' between the parties to it. The correctness or otherwise of a judicial decision has no bearing upon the question whether or not it operates as 'res judicata.

c) In State of West Bengal v. Hemant Kumar Bhattacharjee (MANU/SC/0161/1962 : AIR 1966 SC 1061), the main issue related to the Special Court to try a Criminal offence, in as much as an incorrect decision cannot be equated with a decision rendered without jurisdiction. Even a wrong decision can be superseded only through appeals to higher tribunals or Courts or through review, if provided by law.

31. We accordingly hold that the High Court was justified in affirming the judgments of the First Appellate Court as well as the Trial Court dismissing the suit filed by the Appellant herein. We have no reason to interfere with the impugned judgment."

8.6 Furthermore, as held by the Supreme Court in ***Indore Development Authority (supra)***, where land owners seek reference under Section 18 for enhancement of compensation, they cannot turn around and contend that acquisition has lapsed under Section 24(2). Nobody is permitted to approbate and reprobate at the same time. Hence, the present petition is barred both on grounds of *constructive res judicata* and on the petitioners' own conduct and selection of remedy.

8.7 Insofar as the petitioners' reliance on the provisions of Section 24(2) of the 2013 Act is concerned, their interpretation is unsustainable in light of the binding precedent laid down in ***Indore Development Authority (supra)***, in paragraph 366 of which the Constitution Bench of this Court observed as under:

> *"366. In view of the aforesaid discussion, we answer the questions as under:1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.*
>
> *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 Act of 2013 under the Act of 1894 as if it has not been repealed.*
>
> *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 Act of 2013 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.*
>
> *4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.*
>
> *5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners 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 Act of 2013.*
>
> *6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

> *7. The mode of taking possession under the Act of 1894 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 Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).*
>
> *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 Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*
>
> *9. Section 24(2) of the Act of 2013 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 Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred 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."*

8.8 The Constitution Bench in ***Indore Development Authority*** *(supra),* has decisively ruled that acquisition shall not be deemed to have lapsed if either of the two conditions, namely, payment of compensation or taking of possession, is fulfilled. In the present case, both conditions stand satisfied. Compensation was deposited in court as per Section 31(2), and possession was demonstrably taken as per the panchnama and official records. The mere continuation of petitioners' possession after symbolic or paper possession is taken, especially where substantial development has occurred, cannot be a basis to claim that possession was not taken under law. The Supreme Court has also clarified that Section 24(2) does not revive or create a fresh cause of action for landowners whose acquisition proceedings had attained finality prior to 01.01.2014, and that the provision cannot be used as a tool to reopen settled acquisitions or challenge state action long after reasonable periods have elapsed.

8.9 We find that once the land is acquired and the mandatory requirements are complied with, including possession having been taken, the land vests in the State Government free from all encumbrances. A categorical finding has also been recorded that even if some land remains unutilized, it would not be reconveyed or reassigned to the

erstwhile owner by invoking the provisions of the Act, 1894, in view of the settled law laid down in ***Government of A.P. & Another vs. Syed Akbar***[8]. The Supreme Court has also considered Sections 17(1) and 17(4) of the Act, 1894. Once the urgency clause has been invoked, the land vests absolutely in the Government free from all encumbrances, and where possession has been taken under Section 9, even the Government cannot withdraw from the acquisition, including under Section 48 of the Act, 1894. The categorical finding was returned by the Supreme Court relying on its judgment in ***Satendra Prasad Jain vs. State of U.P.***[9] The Supreme Court, while considering the same acquisition in its judgment dated 08.05.2013 in Civil Appeal Nos.2944, 2945, and 2947 of 2013, also considered the plea of the tenure-holders that if any land acquired by the MDA remained unutilized and the MDA proposed to the Government to release such land in favour of the landowners, such a plea could not be sustained. This is because possession had already been taken, and the land had vested in the State free from all encumbrances. Accordingly, the plea of the tenure-holders (predecessors-in-interest of the petitioners) was rejected, and the alleged resolution of the MDA was held to be absolutely unwarranted in law. In the instant matter, we find that some tenure-holders who had not accepted compensation had preferred LARs, being aggrieved by the quantum of compensation. Therefore, it cannot be presumed that they were against the acquisition; rather, they were dissatisfied with the adequacy of the compensation and sought to claim higher compensation through the LARs. At this stage, the relief sought in the instant proceedings that the acquisition proceedings would lapse under Section 24(2) of the Act, 2013, is unsustainable, as the acquisition in question had already been upheld in the aforementioned civil appeals by the Supreme Court and the similar challenge of acquisition had also been rejected by the Division Bench in Writ Petition No.30346 of 2013 (Baij Nath and 80 others vs. State of U.P. and others) and the relief for de-notification was also rejected, and the categorical findings were returned that the possession was taken as

8 **AIR 2005 SC 492**
9 **AIR 1993 SC 2517 : (1993) 4 SCC 369**

per law. By no stretch of imagination can it be presumed that once the acquisition was approved by the Supreme Court, the State Government would thereafter have any discretion to de-notify the land which is already acquired and vested in the State free from all encumbrances.

8.10 This Court also finds that the petition is hopelessly barred by delay and laches. The acquisition proceedings commenced with the notification under Section 4 of the 1894 Act on 01.02.1990, followed by declaration under Section 6 on 07.03.1990, and culminated in the award dated 17.03.1992. The petitioners' claim raised more than 30 years later, is clearly stale. As repeatedly held by the Supreme Court, including in ***Aflatoon v. Lt. Governor of Delhi***[10], and ***Swaika Properties Pvt. Ltd. v. State of U.P.***[11], delay and laches disentitle a petitioner from equitable relief under Article 226 of the Constitution of India. No satisfactory explanation has been offered by the petitioners for approaching the Court after such an inordinate delay. The plea that the cause of action arose upon enactment of the 2013 Act is without merit, as that provision cannot be stretched to invalidate acquisitions concluded two decades prior.

8.11 Another argument based on parity with other de-notified Khasra numbers is also untenable. The respondents have clarified that the de-notifications carried out in 2016 and 2017 were based on administrative decisions taken under the legal position as it then stood, primarily relying upon the interpretation of ***Pune Municipal Corporation v. Harakchand Misrimal Solanki (supra)***. However, that decision was subsequently overruled by the Constitution Bench in ***Indore Development Authority (supra)***. The principle of equality under Article 14 cannot be invoked to claim relief in derogation of law. In ***Union of India v. M.K. Sarkar***[12], the Supreme Court cautioned that Article 14 is a positive right and cannot be used to perpetuate illegality or irregularity. Moreover, the petitioners' land forms part of a different administrative

---

10 **(1975) 4 SCC 285**
11 **(2008) 4 SCC 695**
12 **(2010) 2 SCC 59**

and legal context, particularly as it has already been built upon. In addition, the earlier decision to drop acquisition was subsequently rescinded through MDA Board Resolution dated 15.03.2002.

8.12 The Supreme Court, in ***M/s Delhi Airtech Services Pvt. Ltd. and another vs. State of U.P. and another***[13] *cited by the petitioners*, which considered the judgment passed in ***Satendra Prasad Jain (supra)*** and held that the acquiring authority and/or the beneficiary cannot derive any benefit from non-compliance with the requirements of Section 17(3A) and take advantage of Section 11A of the Act, 1894. The benefit of these provisions is meant for the land loser. In *Satendra Prasad Jain* (supra) also, the Supreme Court was of the view that it was not open to the acquiring authority or the beneficiary to invoke Section 11A or Section 17(3A), which are intended to protect the interests of the landowner, in order to avoid making an award within the prescribed time. It was further clarified that *Satendra Prasad Jain* (supra) does not lay down the ratio that an acquisition can never lapse under any circumstance if the urgency provision under Section 17 of the Act, 1894 is invoked; rather, it only disapproved applying such provisions against the land loser. In the instant matter, it is an admitted fact that the urgency clause was invoked, notice under Section 9 of the Act was issued, objections were filed, and thereafter the award was made. The awarded compensation was duly deposited, but some of the tenure-holders did not accept the same. Various Land Acquisition References (LARs) were made, and it is also on record that the award was made well within time and several tenure-holders preferred LARs. In these circumstances, the judgment in M/s Delhi Airtech Services Pvt. Ltd. (supra) cited by the petitioners is fundamentally distinguishable from the instant case and provides no help to the petitioners for several critical reasons relating to compliance with statutory requirements, factual circumstances, and the nature of possession taken.

---

13 **2022 LiveLaw (SC) 888 : 2022 SCC OnLine SC 1408**

8.13 In the M/s Delhi Airtech Services Pvt. Ltd. (supra), the Supreme Court specifically held that the rigour of Section 11A of the Land Acquisition Act, 1894 would apply to render acquisition proceedings lapsed only where the acquiring authority had failed to comply with the mandatory requirement under Section 17(3A) of tendering and paying eighty per cent of the estimated compensation before taking possession, thereby making such possession illegal and preventing absolute vesting of the land in the government. However, in the instant case involving the Ganga Nagar Housing Extension Scheme, the factual matrix reveals that possession of the acquired 246.931 acres was lawfully taken in phases between 1998 and 2010 following due process, including compliance with the urgency provisions under Section 17(1) and (4), and crucially, the Supreme Court in Civil Appeal Nos. 2944, 2945 and 2947, all of 2013 had already examined this very acquisition and categorically held that "the land was acquired by the State for the purposes of expansion of city and that major portion of the land has already been utilized by the Authority," thereby confirming that proper possession had been taken and the land had vested absolutely in the State Government free from all encumbrances.

8.14 Furthermore, the Supreme Court in judgment of the aforesaid Civil Appeal Nos. 2944, 2945 and 2947, all of 2013 emphasized and considered that where land has been utilized and developed by the beneficiary with substantial investments - as evidenced in the instant case, where the MDA had spent approximately Rs. 21 crores on development activities including roads, sewerage, overhead water tanks, and other civic amenities, and had already allotted 125 acres for residential and institutional purposes - the acquisition cannot be set aside merely on technical grounds. The Supreme Court's specific finding in the instant case that possession was legally taken, substantial development had occurred, and the acquisition served the public purpose of planned urban development directly negates any argument that the Delhi Airtech precedent could apply, as that case dealt with illegal possession without compliance with Section 17(3A), whereas here all statutory requirements

were fulfilled and the acquisition had attained finality through judicial scrutiny, making the ratio of Delhi Airtech (supra) entirely inapplicable to the petitioners' claims for de-notification.

8.15 Learned counsel for the petitioners has placed heavy reliance on the judgments of the Supreme Court in ***Hari Ram & Another vs. State of Haryana & Others (supra)***, and ***Shyam Verma vs. Land Acquisition Office (supra)***. However, both decisions are also of no assistance to the petitioners, as they are clearly distinguishable on facts from the present case.

8.16 In light of the above discussion, this Court holds that:

(i) The acquisition of the land in question was lawfully undertaken and concluded under the Act, 1894, and possession was duly taken in accordance with law, which has been approved by the Supreme Court in Civil Appeal Nos.2944 of 2013, 2945 of 2013, and 2947 of 2013, as well as by the Division Bench of this Court in ***Baij Nath and 80 others (supra).***

(ii) The petitioners' predecessors-in-interest participated in the acquisition by filing proceedings for enhanced compensation under Section 18 of the Act, 1894, thereby acknowledging the validity of acquisition.

(iii) The writ petition is barred by *constructive res judicata* along with delay/laches.

(iv) Section 24(2) of the 2013 Act does not apply to revive or nullify such concluded acquisition proceedings, which have already been upheld by the Supreme Court.

(v) No case of parity or discrimination is made out, as the legal foundation of the earlier de-notification decisions no longer holds good after the judgment in ***Indore Development Authority (supra).***

G. <u>CONCLUSION</u>:

9. In conclusion, the present writ petitions are found to be legally unsustainable, barred by principles of finality, delay, and judicial discipline. Thus, the petitions lack merit and deserve to be dismissed.

9.1 Accordingly, all the above-noted writ petitions stand **dismissed**. No order as to costs.

(Vinod Diwakar,J.) **(Mahesh Chandra Tripathi,J.)**

September 12, 20025
NLY