2025:AHC:214100

HIGH COURT OF JUDICATURE AT ALLAHABAD

CONTEMPT APPLICATION (CIVIL) No. - 2555 of 2017

Vinay Kumar Singh

…..Applicant(s)

Versus

Suresh Chandra Princ.secy.irrigation Deptt.and 4 Ors.

…..Opposite Party(s)

Counsel for Applicant(s)	:	Dharmendra Kumar Pandey, Pankaj Dubey
Counsel for Opposite Party(s)	:	C.S.C., S.C.

A.F.R.
RESERVED ON 30.04.2025
DELIVERED ON 28.11.2025

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.

1. The petitioner/applicant claims himself to be a co-sharer and Bhumidhar with transferable rights in Plot Nos. 240 (area 0.3880 hectare), 242M (area 0.5530 hectare), 243 (area 0.0260 hectare) and 245 (area 0.0500 hectare) in the revenue village Bhairopur, Pargana Kewai, Tehsil Handia, District-Allahabad. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as, 'Act, 1894') for acquisition of the aforesaid plots was published on 20.7.1977. The notification under Section 6 of the Act, 1894 was published on 03.10.1977. The award and the supplementary award regarding compensation for land acquired were declared on 21.08.1982 and 22.2.1984 respectively.

2. The applicant/petitioner claims that he has not yet been paid compensation for the aforesaid plots and the State or its agencies were not in actual physical possession of the acquired plots. It is claimed by the petitioner/applicant that he has always been in

actual and physical possession of the acquired plots. It appears from the pleadings and the documents annexed with the affidavit of the parties, and also from the previous orders of this Court, that the plots were initially acquired for use by the Irrigation Department. The Irrigation Department could not utilize the plots, therefore, the plots were subsequently transferred to Urban Development Department for construction of residences under Shri Kanshiram Ji Shahri Garib Awas Yojana. It is the claim of the petitioner/applicant that the plots remained unutilized and compensation was not paid to the petitioner/applicant till the date Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as, 'Act, 2013') was promulgated. The Act, 2013 came in force from 01.01.2014. It transpires from the records and appears to be an admitted case of the parties that compensation due to the applicant was deposited by the State Government in the Government Treasury when the petitioner/applicant refused to take compensation under the Act, 1894.

3. Section 24 of the Act, 2013 provides as follows :-

> "**24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases:**–**(1)** Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894:-
>
> **(a)** where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or
>
> **(b)** where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.
>
> **(2)** Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),where an award under the said section 11 has been made five years or more prior to the commencement of this Act but

> the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act: 22
>
> Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

4. The effect of Section 24(2) of the Act, 2013 and when compensation can be said to have been paid to landowners was considered by the Supreme Court in ***Pune Municipal Corporation And Another Vs. Harakchand Misirimal Solanki And Others, (2014) 2 SCC 183***. The Supreme Court held that Section 31(2) of the Act, 1894 did not conceive revenue deposits as valid deposits and that compensation can be said to have been 'paid' within the meaning of Section 24(2) of the Act, 2013 when the Collector had discharged his obligation and deposited the compensation amount in court and made that amount available to the interested person to be dealt with as provided in Sections 32 and 33. The judgement in ***Pune Municipal Corporation (Supra)*** was delivered on 24.1.2014. The relevant observations of the Supreme Court are reproduced below :-

> "15. **Simply put, Section 31 of the 1894 Act makes provision for payment of compensation or deposit of the same in the court**. This provision requires that the Collector should tender payment of compensation as awarded by him to the persons interested who are entitled to compensation. **If due to happening of any contingency as contemplated in Section 31(2), the compensation has not been paid, the Collector should deposit the amount of compensation in the court to which reference can be made under Section 18**.

16. The mandatory nature of the provision in Section 31(2) with regard to deposit of the compensation in the court is further fortified by the provisions contained in Sections 32, 33 and 34. As a matter of fact, Section 33 gives power to the court, on an application by a person interested or claiming an interest in such money, to pass an order to invest the amount so deposited in such government or other approved securities and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider proper so that the parties interested therein may have the benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

17. While enacting Section 24(2), Parliament definitely had in its view Section 31 of the 1894 Act. From that one thing is clear that it did not intend to equate the word "paid" to "offered" or "tendered". But at the same time, we do not think that by use of the word "paid", Parliament intended receipt of compensation by the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression "paid" used in this sub-section [sub-section (2) of Section 24]. If a literal construction were to be given, then it would amount to ignoring procedure, mode and manner of deposit provided in Section 31(2) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of Section 24(2), the compensation shall be regarded as "paid" if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under Section 18 can be made on happening of any of the contingencies contemplated under Section 31(2) of the 1894 Act. **In other words, the compensation may be said to have been "paid" within the meaning of Section 24(2) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in Sections 32 and 33**.

18. The 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in Nazir Ahmad) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.

19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs.27 crores) was deposited in the government treasury. **Can it be said that deposit of the amount of compensation in the government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Agnelo Santimano Fernandes, relying upon the earlier decision in Prem Nath Kapur, has held that the deposit of the amount of the compensation in the State's revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in court**.

20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land 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 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 be deemed to have lapsed under Section 24(2) of the 2013 Act**."

(emphasis supplied)

5. It is the case of the petitioner/applicant that in light of the judgement in ***Pune Municipal Corporation (Supra)***, the acquisition proceedings in respect of land of the petitioner had

lapsed but despite repeated representations to the concerned authorities to release the plots of the petitioner as stipulated in Section 24(2) of the Act, 2013, no action was taken by the concerned authorities and the plots of the petitioner/applicant were not released. The petitioner/applicant, therefore, filed Writ-C No. 62677 of 2015. The stand of the State in the writ petition was that compensation payable to the petitioner/applicant was deposited in Government treasury, referred as revenue deposit because the petitioner/applicant had refused to receive compensation. This Court vide its order dated 27.07.2016 passed in the writ petition held that the acquisition proceedings relating to the plots of the petitioner shall be deemed to have lapsed under Section 24(2) of the Act, 2013 and consequently orders contrary to the aforesaid position were quashed and the writ petition was allowed. The operative part of the order dated 27.07.2016 is reproduced below :-

> "In the instant case admittedly the deposit has been made in a 'revenue deposit' which has not been deposited in a Court as provided under Section 31(1) of the Act. Since it is not a proper deposit and in view of the decision of the Supreme Court in Pune Municipal Corporation (Supra), we have no hesitation in holding that the acquisition proceedings shall deem to have lapsed under Section 24(2) of the Act, 2013. The impugned order is quashed and the writ petition is allowed."

6. The order dated 27.07.2016 passed by this Court was not complied by the State-respondents and the plots of the petitioner/applicant were not released, therefore, the petitioner filed Contempt Application (Civil) No. 528 of 2017 before this Court wherein this Court vide its order dated 03.02.2017 granted further time to the State-respondents to comply with the order passed by this Court. The State and its officers again failed to comply with the order passed by this Court and did not release the land of the petitioner/applicant, hence the present contempt application was filed by the petitioner/applicant on 27.05.2017.

7. During the pendency of the present contempt application, the State of Uttar Pradesh challenged the order dated 27.7.2016 through Special Leave Petition (C) No. 7116 of 2017 which was dismissed by the Supreme Court vide its order dated 12.09.2017. In its order dated 12.09.2017, the Supreme Court noted that it did not find any merit in the petitions, therefore, the petitions were being dismissed. However, even after dismissal of the Special Leave Petition, the opposite parties did not comply with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015.

8. It appears from the pleadings in the affidavits of the opposite parties and also from the previous orders of the Court passed in the present contempt petition that initially the stand of the opposite parties was that the plots were acquired for Irrigation Department which was responsible for payment of compensation but the plots were subsequently transferred to the department of Urban Development, Government of Uttar Pradesh, Lucknow, which consequently became responsible for compliance of the order passed by this Court. As a result of the aforesaid stand taken by the opposite parties the Principal Secretary of the Department of Urban Development, Government of Uttar Pradesh, Lucknow was impleaded as opposite party in the present contempt application. In the same context, an order dated 28.04.2022 was passed by this Court which, after noting the stand of the opposite parties, observed as follows :-

> "Now, **the high handedness on the part of the department is apparent from the fact that in the affidavit filed by the Principal Secretary, he has stated that the compensation has to be paid by the Urban Development Department**.
>
> The applicant is concerned with the compensation as per law. It is a matter between the two departments as to which department is liable to pay compensation and the applicant cannot be made to be used as a shuttle cock by two departments and throw him to one department to other department for compensation.

In fact, the aforesaid conduct of the Officers reflects mal administration on the part of the State Government which is not expected from the officers of the State Government.

In such view of the fact, let opp party no.7- Sri Turamalla Venkatesh, Additional Chief Secretary, Secretary Irrigation Department, U.P. Government Lucknow and respondent no.8-Dr. Rajneesh Debey, Additional Chief Secretary, Government of U.P. Urban Development, Urban Employment and Poverty Elimination Programme, U.P. Lucknow and District Magistrate, Allahabad shall appear before the Court on the next date fixed.

List this case on 6th May, 2022."

(emphasis supplied)

9. It appears that subsequently an assurance was given by the Chief Standing Counsel that the dues of the applicant shall be released within a period of one week. The assurance was recorded in the order dated 06.05.2022 passed by this Court. The order dated 06.05.2022 is reproduced below :-

"**Order on Civil Misc. Impleadment Application No.9 of 2022.**

The present impleadment application has been filed by applicant to implead 'Sri Anil Garg, Principal Secretary, Irrigation Department, UP, Lucknow and Sri Amrit Abhijat, Principal Secretary, Urban Development, Urban Employment & Poverty Elimination Programme, UP, Lucknow' as opposite party nos.13 & 14 in the array of the parties.

The impleadment application is allowed. Learned counsel for the applicant is permitted to carry out the necessary impleadment in the array of the parties during the course of the day.

Order on Order-sheet.

Sri Vineet Pandey, learned Chief Standing Counsel has informed the Court that Sri Rajneesh Dubey, Additional Chief Secretary, Urban Development, Urban Employment & Poverty Elimination Programme, UP, Lucknow has talked with the Chief Secretary, who has assured that the entire dues of the applicant shall be released within a period of one week from today.

> In view of the aforesaid positive statement made by learned Chief Standing Counsel on instructions that the entire dues shall be released and credited in the account of applicant within a period of one week i.e. by 15.05.2022, the case is adjourned.
>
> List this case on **16.05.2022**. On which date, newly impleaded opposite party as well as opposite parties no.7, 8 & 9 shall remain present before this Court."

10. The assurance given by the State Council as noted in the order dated 6.5.2022 was not discharged and when the case was again taken up by this Court, the opposite parties changed their stand. The opposite parties took the plea that in light of the judgement of the Supreme Court in ***Indore Development Authority Vs. Manoharlal and Others, (2020) 8 SCC 129*** (hereinafter referred to as, '***Manoharlal***') which overruled ***Pune Municipal Corporation*** and held that non-deposit of compensation in court would not result in lapsing of land acquisition proceedings, therefore, the order dated 27.7.2016 passed by this Court in Writ-C No. 62677 of 2015 could not be implemented and the opposite parties cannot be held to have disobeyed the order passed by this Court making them liable in contempt. The subsequent stand of the opposite parties is contained in the affidavit dated 25.05.2022 of the District Magistrate, Prayagraj and the affidavit dated 27.04.2025 filed by the Principal Secretary, Irrigation and Water Resources Department, Government of Uttar Pradesh, Lucknow.

11. At this juncture, it would be relevant to reproduce the relevant observations of the Supreme Court in ***Manoharlal*** overruling ***Pune Municipal Corporation*** which are as follows :-

> "**365. Resultantly, the decision rendered in *Pune Municipal Corpn.* is hereby overruled and all other decisions in which *Pune Municipal Corpn.* has been followed, are also overruled**. The decision in *Sree Balaji Nagar Residential Assn.* cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In *Indore Development Authority v. Shailendra* the aspect with respect to the proviso to Section 24(2) and

whether "or" has to be read as "nor" or as "and" was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.

366. In view of the aforesaid discussion, we answer the questions as under:

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 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.

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the 2013 Act under the Act of 1894 as if it has not been repealed.

366.3. The word "or" used in Section 24(2) between possession and compensation has to be read as "nor" or as "and". The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

366.4. The expression "paid" in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of 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 1894 Act 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, 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 2013 Act has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or

non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.

366.6. The proviso to Section 24(2) of the 2013 Act is to be treated as part of Section 24(2), not part of Section 24(1)(b).

366.7. The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).

366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with 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.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 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."

(emphasis supplied)

12. It has been argued by Shri Manish Goyal, Additional Advocate General and Shri A.K. Goyal, Additional Chief Standing Counsel that through ***Manoharlal*** the Supreme Court has not only overruled its previous judgement in ***Pune Municipal Corporation*** but has also overruled all other decisions which followed ***Pune Municipal Corporation***. A judicial decision subsequently overruled by a Constitution Bench loses its binding effect as the legal reasoning underpinning it is determined to be incorrect. It has been argued

that even though the judgement of this Court in Writ-C No. 62677 of 2015 has not been expressly mentioned by the Constitution Bench, the order dated 27.07.2016 stands overruled by necessary implication and consequently the foundation of present contempt application has been removed by the Supreme Court, therefore, contempt proceedings cannot be sustained on the basis of the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015. It has been further argued that subsequent judgements of the Supreme Court in ***Government of N.C.T. of Delhi and Another Vs. BSK Realtors LLP and Another, (2024) 3 SCC 370***, ***State of (NCT of Delhi) Vs. K.L. Rathi Steels Ltd., (2024) 7 SCC 315*** and ***Delhi Development Authority Vs. Tejpal and Others, (2024) 7 SCC 433*** show that there was some judicial ambiguity regarding Section 24 of the Act, 2013 and the effect of overruling ***Pune Municipal Corporation***. The ambiguity creates a situation where there can be multiple reasonable interpretations of the existing law and the action of the State and its officers in not implementing the order passed by this Court can be justified on one such interpretation, therefore, there is no willful disobedience of the order passed by this Court. It has been further argued that contempt proceedings cannot be used for execution or implementation of an order passed by this Court and the petitioner/applicant has other remedies available to him in law for the purpose. It has been further argued that judicial discipline demands that the courts and the executive authorities follow the law laid down by the Supreme Court and under Article 141 of the Constitution the law declared by the Supreme Court is binding on all courts within the territory of India. By virtue of Article 144 all civil and judicial authorities in the territory of India are obliged to act in aid of the Supreme Court. It has been argued that the judgement delivered by the Supreme Court in ***Manoharlal*** is the law under Article 141 of the Constitution of India, which implies that the law laid down in ***Pune Municipal Corporation*** is not operative. Therefore, under Article 144 of the Constitution of India, the courts and the executive authorities are obliged to act for enforcement of law as laid down in ***Manoharlal*** and for the said reason the executive or the State-authorities can not act in

compliance of the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015. It has been argued that for the aforesaid reasons, the opposite parties are not in contempt and the contempt application is liable to be dismissed. In support of their contention, the opposite parties have relied on ***S.E. Graphites (P) Ltd. Vs. State of Telangana, (2020) 14 SCC 521, C.N. Rudramurthy Vs. K. Barkathulla Khan, (1998) 8 SCC 275, State of Maharashtra Vs. Mana Adim Jamat Mandal, (2006) 4 SCC 98, Himangni Enterprises Vs. Kamaljeet Singh Ahluwalia, (2017) 10 SCC 706, Dr. U.N. Bora, Ex. Chief Executive Officer and Others Vs. Assam Roller Flour Mills Associate and Another, (2022) 1 SCC 101, Sushila Raje Holkar Vs. Anil Kak, (2008) 14 SCC 392, Anil Ratan Sarkar Vs. Hirak Ghosh, (2002) 4 SCC 21, R.N. Dey Vs. Bhgyabati Pramanik, (2000) 4 SCC 400, Prashant Bhushan and Another in RE (Suo Moto Contempt Petition), (2021) 3 SCC 160, Suganthi Suresh Kumar Vs. Jagdeeshan, (2002) 2 SCC 420, Shenoy & Co. Vs. CTO, (1985) 2 SCC 512, Director of Settlements, A.P. Vs. M.R. Apparao, (2002) 4 SCC 638, Union of India Vs. Nirala Yadav, (2014) 9 SCC, Kantaru Rajeevaru (Sabarimala Temple Review-5J.) Vs. Indian Young Lawyers Association, (2020) 2 SCC 1, Spencer and Company Ltd. And Another Vs. Vishwadarshan Distributors Pvt. And Others, (1995) 1 SCC 259, Tirupati Balaji Developers (P) Ltd. Vs. State of Bihar, (2004) 5 SCC 1*** and ***Ram Kishore Vs. State of U.P. 2012 SCC OnLine All***.

13. Challenging the stand of the opposite parties, the counsel for the applicant has argued that the judgement of the Supreme Court in ***BSK Realtors L.L.P. (Supra)*** is not applicable in the present case inasmuch as in the present case the Special Leave Petition filed by the State against the order of the writ Court stood dismissed on merits and no recall or review application either for recall or for review of the order passed by the Supreme Court or by the High Court had been filed nor any such application was pending. It was further argued that subsequent overruling of ***Pune Municipal Corporation*** would not relieve the State-respondents

from their obligation to comply with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015 because even an erroneous decision by a court operates as *res judicata* between the parties and the State officers are obliged to comply with the same. It was argued that when a judgement is subsequently overruled, it is only its binding nature as a precedent that is taken away and the lis between the parties is still deemed to have been settled by the overruled case. It was argued that overruling of ***Pune Municipal Corporation*** by ***Manoharlal*** only overrules the precedential value of ***Pune Municipal Corporation*** and does not reopen the dispute between the applicant and the State-respondents and the State-respondents are still liable to comply with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015. It was further argued that the different orders passed by this Court (which have been noted above) would clearly show that the State-respondents have knowingly and willfully disobeyed the orders of this Court and have also gone back on their assurance given in the Court. It was argued that for aforesaid reasons, the State-respondents are liable to be prosecuted and punished for Contempt of Court. In support of his contention the applicant/petitioner has relied on ***Neelima Srivastava Vs. State of U.P., (2021) 17 SCC 693, Delhi Development Authority Vs. Tejpal, (2024) 7 SCC 433, BSNL Vs. Union of India, (2006) 3 SCC 1, Natural Resources Allocation, In re, Special Refernce No. 1 of 2012, (2012) 10 SCC 1*** and ***State (NCT of Delhi) Vs. K.L. Rathi Steels Ltd., (2024) 7 SCC 315***.

14. I have considered the submissions of the counsel for the parties.

15. For reasons stated hereinafter I find that the opposite parties, i.e., the different officers of the State Government, have knowingly and willfully disobeyed the order of this Court and the defense of the opposite parties that there is judicial ambiguity regarding Section 24 of the Act, 2013 is not acceptable.

16. In order to appreciate the defense of the opposite parties and their claim of having acted in bona-fide confusion, it would be appropriate to give a short account of the developments starting from ***Pune Municipal Corporation*** and ending in ***BSK Realtors***.

17. After the Act, 2013 came in force from 1.1.2014, the phrase 'the physical possession of the land has not been taken or the compensation has not been paid' used in Section 24(2) of the Act, 2013 came up for interpretation before the Supreme Court in ***Pune Municipal Corporation***. In ***Pune Municipal Corporation (Supra)***, the Supreme Court held that 'paid' in Section 24(2) of the Act, 2013 did not include 'revenue deposits' and compensation can be considered to have been paid only when the Collector had discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in Sections 32 and 33 of the Act, 1894. The observations of the Supreme Court in ***Pune Municipal Corporation*** have already been reproduced before. After the ***Pune Municipal Corporation***, the Supreme Court in ***Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu and Others, (2015) 3 SCC 353***, while considering whether the land acquisition proceedings shall be deemed to have lapsed if the award is five years old or more than five years old but physical possession of the land has not been taken over or compensation has not been paid but the failure to take possession or non-payment of compensation was because of any stay order of a Court, held that Section 24(2) of the Act, 2013 did not exclude any period during which the land acquisition proceedings might have remain stayed on account of stay or injunction granted by any court.

18. The correctness of the view taken by the Supreme Court in ***Sree Balaji*** was doubted by another Bench of the Supreme Court in ***Yogesh Neema and Others Vs. State of Madhya Pradesh and Others, (2016) 6 SCC 387*** and the matter was referred for decision to a larger Bench of the Supreme Court.

19. After the judgement of the Supreme Court in ***Pune Municipal Corporation*** several writ petitions were filed in different High Courts by the landowners claiming that the acquisition proceedings had lapsed because compensation had not been paid to them in the manner as stipulated in ***Pune Municipal Corporation***. The writ petitions were allowed by different orders passed by the High Courts and consequently Special Appeals were filed before the Supreme Court by the acquiring authorities. Some such Special Appeals were dismissed by the Supreme Court through its judgement and order dated 29.11.2016 passed in ***Government of N.C.T. of Delhi and Others Vs. Kartar Singh and Others, (2016) SCC Online SC 1525.*** Through its order dated 29.11.2016, the appellants, i.e., the appropriating authorities were given a period of one year to exercise their liberty granted under Section 24(2) of the Act, 2013 for initiation of fresh acquisition proceedings. It was further provided that the appropriating authority, if in possession, shall return the physical possession of the land to the original landowners if no fresh acquisition proceedings were initiated within the period of one year from the date of order of the Supreme Court.

20. Meanwhile, the correctness of the decision in ***Pune Municipal Corporation (Supra)*** was doubted in ***Indore Development Authority Vs. Shailendra (dead) through legal representative and Others, (2018) 1 SCC 733*** (hereinafter referred to as, **Shailendra-I**), and the matter was referred to a larger Bench by order dated 7.12.2017. Subsequently, in ***Indore Development Authority Vs. Shailendra (dead) through legal representative and Others, (2018) 3 SCC 412*** (hereinafter referred to as, **Shailendra-II**) the judgement in ***Pune Municipal Corporation*** was declared as per incurriam and it was held that the decision in ***Sree Balaji (Supra)*** was not a good law. The decision of the Supreme Court in ***Sree Balaji (Supra)*** was overruled and other decisions following the judgement of the Supreme Court in ***Sree Balaji (Supra)***, to the extent they were in conflict with the decision in ***Shailendra-II***, were also overruled. It was observed by the Supreme Court in paragraph No. 217 of the

its reports that 'the decisions rendered on the basis of ***Pune Municipal Corporation*** were open to be reviewed in appropriate cases on the basis of the decision in ***Shailendra-II***. The judgement of the Supreme Court in ***Shailendra-II*** was delivered on 8.12.2018.

21. Subsequently, the decision in ***Pune Municipal Corporation*** was re-considered by a five-Judge Bench in ***Indore Development Authority Vs. Manoharlal and Others, (2020) 8 SCC 129***. The relevant observations and the decision of the Supreme Court in ***Manoharlal*** have been reproduced before. In ***Manoharlal***, the Court overruled ***Pune Municipal Corporation*** and all other decisions in which ***Pune Municipal Corporation*** had been followed were also overruled. The judgement in ***Manoharlal*** was delivered on 6.3.2020. As a consequence of ***Manoharlal*** different recall applications were filed for recall of the judgement in ***Pune Municipal Corporation*** and the judgement and order dated 24.1.2014 passed in ***Pune Municipal Corporation*** was recalled by the Supreme Court vide its order dated 16.7.2020. The order has been reported in ***Pune Municipal Corporation And Another Vs. Harakchand Misirimal Solanki And Others, (2020) SCC Online SC 1471.***

22. It appears that because of the observations of the Supreme Court in paragraph No. 217 of ***Shailendra-II*** several review applications were filed before the Supreme Court for review of the order passed in ***Kartar Singh (Supra)***. The said review applications were heard by the Supreme Court in ***Government of N.C.T. of Delhi and Another Vs. K.L. Rathi Steels Limited and Others, (2023) 9 SCC 757*** (hereinafter referred to as, '***K.L. Rathi Steels-I***'). The issue for determination in ***K.L. Rathi Steels-I*** was as to whether the judgement passed in ***Pune Municipal Corporation*** and all other judgements following the said dictum, which had been overruled in ***Manoharlal***, could be reviewed by entertaining the review applications and the orders be recalled and the cases be reheard and decided in light of ***Manoharlal*** despite having attained finality between the parties.

The delay in filing the review/recall applications were condoned, but due to divergence of opinion the matter was referred to a larger Bench and was heard by a three-Judge Bench in ***Government of N.C.T. of Delhi Vs. K.L. Rathi Steels Limited and Others, (2024) 7 SCC 315*** (hereinafter referred to as, '***K.L. Rathi Steels-II***').

23. The issue in ***K.L. Rathi Steels-II***, the issue again was regarding the maintainability of the review/recall applications. It was argued by the review applicants that the review/recall applications were maintainable because of the liberty granted by the Supreme Court in ***Shailendra-II*** which had the force of law under Article 141 of the Constitution. It was argued by the review applicants that the lands which were the subject matter of the proceedings before the Supreme Court were required for implementing residential schemes for low income groups and significant construction had already been carried-out in some acquired portions, therefore, public interest required that jurisdiction under Article 142 of the Constitution be invoked and the review/recall applications be heard on merits. It was further argued that because the judgement in ***Pune Municipal Corporation*** and all decisions in which the ***Pune Municipal Corporation*** had been followed stood overruled, therefore, acquisition proceedings can not be deemed to have lapsed under Section 24(2) unless the conditions enumerated in paragraph No. 366 of ***Manoharlal*** were satisfied. It was argued that vide order dated 16.7.2020, the decision in ***Pune Municipal Corporation*** had been recalled, therefore the position of law as expounded therein stood erased leading the findings operating inter-se the parties to cease. It was argued that for the aforesaid reasons the recall/review applications were maintainable and were to be decided on merits on a case to case basis on various parameters including the stage of litigation, the reason for incomplete acquisition by the State, the stage of acquisition, the status of possession and compensation and the purpose of acquisition.

24. The recall/review applications were opposed by the landowners on the ground that the decision in ***Manoharlal*** operated prospectively and can not operate retospectively and could not reopen the claims which had attained finality, therefore, the decision did not help the review/recall applicants. It was argued that by overruling ***Pune Municipal Corporation, Manoharlal*** merely took away the precedential value of ***Pune Municipal Corporation*** and did not affect the binding nature of the decision which had attained finality inter-se the parties. The review applications were further opposed on the ground that in terms of Explanation to Rule 1 of Order 47 C.P.C., overruling of earlier judgements did not constitute a ground for review. The review applications were also opposed on the ground of inordinate delay and that no sufficient explanations had been provided for the delay even after the purported liberty granted by the Supreme Court in ***Shailendra-II***.

25. The Supreme Court in ***K.L. Rathi Steels-II*** held that the observation in ***Shailendra-II*** declaring ***Pune Municipal Corporation (Supra)*** per incurriam stood removed by the judgement of the Supreme Court in ***Manoharlal***, therefore, it would not be reasonable or appropriate to hold that the consequential observation in ***Shailendra-II*** permitting review or recall of the ***Pune Municipal Corporation*** was operative and review was maintainable. It was further observed by the Supreme Court that the observations in paragraph No. 217 of ***Shailendra-II*** regarding review of the previous judgements **only meant that if review petitions were pending on the date of decision, i.e., 8.2.2018, seeking review of decision which had been rendered relying on the decisions in *Pune Municipal Corporation* such review petitions could be entertained and considered on the basis of discussion in *Shailendra-II* declaring *Pune Municipal Corporation* per incurriam and the decisions reviewed**. It was observed by the Supreme Court that the judgement in ***Shailendra-II*** did not give a carte blanche to the land acquiring authorities to apply for review of decisions already made by the Courts relying on the decision in ***Pune***

Municipal Corporation even though the remedy of appeal or review had not been pursued earlier and without the successful landowners being on record before the Court. The Supreme Court further observed that the review petitions were filed before the judgement in ***Manoharlal (Supra)*** and under the law a review petition cannot be filed in anticipation of a favourable judgement in future. The Supreme Court while rejecting the plea of the review/recall applicants that the review petitions were maintainable in light of the observations of the Supreme Court in paragraph No. 217 of ***Shailendra-II***, refered to Explanation to Rule 1 of Order 47 C.P.C. and held that subsequent developments are not valid grounds to entertain a review application or to review an order passed by the Court inasmuch as at the time the order was passed following the law laid down in ***Pune Municipal Corporation***, the same did not suffer from an error apparent on the face of record. It was held that no review was available upon a change or reversal of a proposition of law by a Superior Court or by a larger Bench overruling its earlier exposition of law whereon the judgement/order under review was based. It was further held that the subsequent overruling of ***Pune Municipal Corporation (Supra)***, and even its recall for that matter, did not afford a ground for review within the parameters of Order 47 C.P.C. The review applications and the miscellaneous applications filed by the land acquiring authorities were dismissed. The decision of the Supreme Court in ***K.L. Rathi Steels-II*** was delivered on 17.5.2024. At this stage, it would be relevant to reproduce the observations of the Supreme Court in paragraph Nos. 104, 110 and 121 of ***K.L. Rathi Steels-II***. The observations of the Supreme Court in paragraph Nos. 104, 110 and 121 of ***K.L. Rathi Steels-II*** are reproduced below :-

> "**104.** Another three-Judge Bench of this Court in My Palace Mutually aided Coop. Society v. B. Mahesh held thus : (SCC paras 27-28)
>
> > "27. In exercising powers under Section 151 CPC, it cannot be said that the civil courts can exercise substantive jurisdiction to unsettle already decided issues. **A Court having jurisdiction over the**

> **relevant subject-matter has the power to decide and may come either to a right or a wrong conclusion. Even if a wrong conclusion is arrived at or an incorrect decree is passed by the jurisdictional court, the same is binding on the parties until it is set aside by an appellate court or through other remedies provided in law**.
>
> 28. Section 151 CPC can only be applicable if there is no alternate remedy available in accordance with the existing provisions of law. Such inherent power cannot override statutory prohibitions or create remedies which are not contemplated under the Code. Section 151 cannot be invoked *as an alternative to filing fresh suits, appeals, revisions, ore reviews*. A party cannot find solace in Section 151 to allege and rectify historic wrongs and bypass procedural safeguards inbuilt in CPC.

110. We, thus, hold that no review is available upon a change or reversal of a proposition of law by a superior court or by a larger Bench of this Court overruling its earlier exposition of law whereon the judgement/order under review was based. We also hold that notwithstanding the fact that Pune Municipal Corpn. Has since been wiped out of existence, the said decision being the law of the land when the civil appeals/special leave petitions were finally decided, the subsequent overruling of such decision and even its recall, for that matter, would not afford a ground for review within the parameters of Order 47 C.P.C.

121. Similarly, and more recently, this Court in Supertech Ltd. v. Emerald Court Owner Resident Welfare Assn. Held: (SCC p. 829, para 13)

> "13. the hallmark of a judicial pronouncement is its stability and finality. Judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather. A disturbing trend has emerged in this Court of repeated applications, styled as miscellaneous applications, being filed after a final judgement has been pronounced. Such a practice has no legal foundation and must be firmly

> discouraged. It reduces litigation to a gambit. Miscellaneous applications are becoming a preferred course to those with resources to pursue strategies to avoid compliance with judicial decisions. **A judicial pronouncement cannot be subject to modification once the judgement has been pronounced, by filing a miscellaneous application**. Filing of a miscellaneous application seeking modification / clarification of a judgement is not envisaged in law. Further, it is a settled legal principle that one cannot do indirectly what one can not do directly ("Quando aliquid prohibetur ex directo, prhibetur et per obliquum")"
>
> (emphasis supplied)

26. On the same date, i.e., on 17.5.2024 the same Bench of the Supreme Court also delivered the judgement in ***Delhi Development Authority Vs. Tejpal and Others, (2024) 7 SCC 433*** (hereinafter referred to as, '***Tejpal***'). In the ***Tejpal*** case, the Supreme Court was considering a batch of cases, which had been classified into three different categories. The classification as made by the Supreme Court was noted in paragraph Nos. 17 and 18 of the aforesaid judgement. Paragraph Nos. 17 and 18 of the judgement of the Supreme Court in ***Tejpal*** case are reproduced below :-

> "**17.** To simplify, the present batch of matters before us can broadly be classified into the following three categories:
>
> **17.1.** First, cases filed before Shailendra. Most of the SLPs in this category were dismissed by this Court after granting leave, on the strength of Pune Municipal Corpn. and Sree Balaji Nagar residential Assn. but a few were deferred to a later date and are still pending.
>
> **17.2.** Second, cases filed after Shailendra, on the ground that Sree Balaji Nagar Residential Assn. Have been overruled and Pune Municipal corpn. Has been held to be per incurriam; and
>
> **17.3.** Third, cases filed after Manoharlal which overruled both Pune Municipal Corpn. and Sree

> Balaji Nagar Residential Assn., with a plea that the High Court decisions deserve to be revisited given the principles enunciated in Manoharlal.
>
> **18.** We note that a factor common to most of the matters mentioned in para 17 above is that they were filed after the expiration of the period of limitation. The quantum of delay differs in each case, and while it is less in the cases filed in the first category, it is significantly long in the second and third categories. Hence, at this stage, it is important to first examine at length the prayer for condonation of delay and the maintainability of these petitions, before delving into the merits of each case."

27. The issue before the Supreme Court in ***Tejpal*** case was as to whether the delay in filing the civil appeals challenging the judgements delivered following the dictum of ***Pune Municipal Corporation*** was liable to be condoned. It was pleaded that the delay in filing the appeals or application was because the appellants were disabled from filing the appeals within the prescribed limitation period as the governing law during such period as laid down in ***Pune Municipal Corporation*** case and ***Sree Balaji (Supra)*** would have caused dismissal of the petitions or appeals. It was argued that since the question of law was finally decided in favour of land acquiring authorities in ***Shailendra-I, Shailendra-II*** and ***Manoharlal,*** the cause of action for filing the appeals or applications stood revived to enable them to approach the Supreme Court. It was argued that the decision in a case is applied retrospectively unless the judgement expressly recites otherwise and since ***Manoharlal*** did not restrict its applicability prospectively, all the cases decided before thereto deserve to be re-decided based on the principles enunciated in it. It was pleaded by the appellants that they could not file the appeals on time because the Courts were frowning upon the filing of multiple fresh special leave petitions despite the law having been settled in ***Pune Municipal Corporation (Supra)*** and was imposing costs while dismissing the special leave petitions. The claim of the appellants

to condone the delay in filing the appeals was contested by the landowners.

28. The Supreme Court after noting that in most of the cases the prescribed period of limitation had expired long before the judugement in ***Shailendra-I***, ***Shailendra-II*** and ***Manoharlal*** were delivered, rejected the plea of the appellants that the delay should be condoned as the cause of action for filing the appeals revived after the decision in ***Shailendra-I***, ***Shailendra-II*** and ***Manoharlal*** were delivered. **The Supreme Court held that the subsequent change of law was not a valid ground for condonation of delay and any event or circumstance arising after the expiry of limitation would not constitute sufficient cause to condone the delay**. It was further observed by the Supreme Court that ***Manoharlal*** only overruled the precedential value of ***Sree Balaji (Supra)*** and ***Pune Municipal Corporation (Supra)*** and did not reopen the lis between the parties. However, the Supreme Court highlighted that cases which are still pending, i.e., where lis was still pending and had not reached finality those cases would be decided on the basis of ***Manoharlal*** because a decision on the interpretation of law applies retrospectively unless the Court specifically rules as to its prospective applicability. At this stage, it would be relevant to reproduce the observations of the Supreme Court in ***Tejpal*** case from paragraph Nos. 37, 38 and 41 to 47. Paragraph Nos. 37, 38 and 41 to 47 of the Supreme Court in ***Tejpal*** are reproduced below :-

> "**37.** Another ground taken by the appellants for seeking condonation of delay is the subsequent change of law brought in by Shailendra and Manoharlal. However, we are unable to agree with this contention because of four primary reasons.
>
> **38.** Firstly, **this ground seeks to use events temporally subsequent to the expiry of the limitation period to justify the delay**. To revisit Section 5 of the Limitation Act, the text of the statute provides that an appeal or application may be admitted after the prescribed period if the

"appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period". Hence, the appellants are require to explain that they were diligent during the prescribed period of limitation and could not file the appeal because of a "sufficient cause" arising within the prescribed period.

41. This leads us to the second reason for disagreeing with the ground, which is that a party cannot be allowed to take advantage of its deliberate inaction during the limitation period. Allowing to the contrary would distort incentives for parties and create dystopian consequences for our judicial process. To put this in right perspective, two scenarios can be juxtaposed: one, where the appellants had been vigilant and had preferred an appeal within the limitation period, but would have failed to succeed as the governing law during that time was as stated by Pune Municipal Corpn. and Sree Balaji Nagar Residential Assn.; and second, where the appellants deliberately allowed the limitation period to expire and have now approached this Court using the subsequent change of law as a ground for allowing the appeals. Now, if the appellants are allowed to file the appeals in the second scenario, it will lead to an anomalous situation where the appellants that were vigilant were not able to get the remedy but the ones that were sleeping over their rights would obtain relief. This would run counter to the purpose of the Limitation Act, which, instead of giving finality to the proceedings, would be permitting the parties to use the delay to their advantage.

42. Thirdly, if subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora's box where all the cases that were subsequently overruled, or the cases that had relied on the judgments that were subsequently overruled, would approach this Court and

would seek a relief based on the new interpretation of law. There would be no finality to the proceedings and every time this Court would reach a different conclusion from its previous case, all such cases and the cases relying on it would be reopened.

43. We find adequate support to our aforestated reason in Tilokchand Motichand v. H.B. Munshi, in which a five-Judge Bench of this Court had the occasion to consider the question of condonation of delay on the basis of subsequent change of law. While giving the majority opinion, Hidayatullah, C.J. held: (SCC p. 116, para 12)

"12. ... Everybody is presumed to know the law. It was his duty to have brought the matter before this Court for consideration. In any event having set the machinery of law in motion he cannot abandon it to resume it after a number of years, because another person more adventurous than he in his turn got the statute declared unconstitutional, and got a favourable decision. **If I were to hold otherwise, then the decision of the High Court in any case once adjudicated upon and acquiesced in, may be questioned in a fresh litigation revived only with the argument that the correct position was not known to the petitioner at the time when he abandoned his own litigation**."

44. Finally, the fourth reason why subsequent overruling cannot be a sufficient cause is because when a case is overruled, it is only its binding nature as a precedent that is taken away and the lis between the parties is still deemed to have been settled by the overruled case. It is settled principle of law that even an erroneous decision operates as res judicata between the parties. **Hence**, when **Manoharlal** overruled Pune Municipal Corpn. and Sree Balaji Nagar Residential Assn., as well as all other cases relying on them it only overruled their

precedential value, and **did not reopen the lis between the parties. The mere fact that the impugned orders in the present case were overruled by Manoharlal would not, therefore, be a sufficient ground to argue that the cases should be reopened**.

45. In this respect, it would be pertinent to highlight an exception-cases that are still pending before this Court. **If the lis is still pending and has not reached finality, those cases would be decided on the basis of Manoharlal**. This is because a decision on the interpretation of law is applied retrospectively unless the court specifically rules as to its prospective applicability.

46. There can, however, be no doubt that a lis will have to be decided as per the new interpretation if during its pendency, the law has been construed in a different manner by a subsequent judgment. We say so for the reason that new construction shall be deemed to be the correct understanding of the statute from its very inception. We find support in this regard from Shyam Madan Mohan Ruia v. Messer Holdings Ltd., in which the High Court had dismissed the suit based on the decision of this Court in Foreshore Coop. Housing Society Ltd. v. Praveen D. Desai. During the pendency of appeal, Foreshore Housing Society was overruled in Nusli Neville Wadia v. Ivory Properties. This Court while deciding the issue in Shyam Mohan Ruia, held that since the precedent forming the very basis of the High Court's decision stood overruled the dispute before it must be decided as per the later decision.

47. To sum up, we hold that subsequent change of law will not be attracted unless a case is pending before the competent court awaiting its final adjudication. To say it differently, if a case has already been decided, it cannot be re-opened and re-

> **decided solely on the basis of a new interpretation given to that law**."
>
> (emphasis supplied)

29. It be noted that review petitions and miscellaneous applications filed primarily pleading change of law after ***Manoharlal*** or appeals filed in cases where previous Special Leave Petitions were dismissed after granting leave were put in List C-1 and List D-1 in the categorisation of cases made in ***Tejpal*** case. The aforesaid cases were dismissed invoking Article 142 and acquisition was to be reinitiated under the Act, 2013 as per ***K.L. Rathi Steels-II*** or ***B.S.K. Realtors***.

30. The judgement in ***BSK Realtors (Supra)*** was also delivered on 17.5.2024.

31. In ***BSK Realtors (Supra)*** the issues which were for consideration before the Supreme Court were enumerated in paragraph 24 of its judgement. Paragraph No. 24 of the judgement of the Supreme Court is reproduced below :-

> "**24.** Having heard the arguments presented by both sides at length on different issues, we propose segmenting our analysis accordingly. The following issues emerge for our consideration:
>
> **24.1.** (a) Whether the dismissal of a civil appeal preferred by one appellant in the first round operates as res judicata against the other appellant in the second round before us?
>
> **24.2.** (b) Whether suppression of the first round of litigation by the appellants constitutes a material fact, thereby inviting an outright dismissal of the appeals at the threshold?
>
> **24.3.** (c) Does the doctrine of merger operate as a bar to entertain the civil appeals in the present case?
>
> **24.4.** (d) Whether the previous determination of the rights of subsequent purchasers in an inter-se dispute precludes the same issue from being reconsidered between the same parties?

32. A perusal of the issue before the Supreme Court in ***BSK Realtors (Supra)*** would show that the decision on issue in the said case is not relevant for the decision of the present contempt application. ***BSK Realtors (Supra)*** is not relevant so far as the present contempt contempt application is concerned inasmuch as the issue in ***BSK Realtors (Supra)*** was the rights of a co-defendant to file a civil appeal against the orders of the writ Court even though one civil appeal filed by another defendant/respondent had been dismissed by the Supreme Court. The aforesaid was to be decided on the arguments of the parties on the doctrine of merger, i.e., whether the order of the High Court allowing the writ petitions had merged with the order of the Supreme Court dismissing the civil appeals and on the principle of res judicata. Principle of res judicata, as an argument is raised in a pending litigation. The doctrine of merger implies that an order of a lower Court merges in, and is substituted by, the order of the Superior Court in appeal. They are not concepts which give a defendant or a judgement debtor a pretext to refuse to comply with the orders of the Court even though no appeal/review has been filed or if filed had been dismissed.

33. However, it would be pertinent to note that in ***BSK Realtors (Supra)*** the Supreme Court reiterated the proposition that ***Manoharlal*** only took away the precedential value of the judgement in ***Pune Municipal Corporation (Supra)*** but the decision itself would be binding inter-partes. The observation of the Supreme Court in paragraph No. 44 of the judgement is reproduced below :-

> "**44.** The net result of the aforesaid judicial decisions is that the judge,emt in Pune Municipal Corpn.7 loses its precedential value, having been recalled, **although the said decision would be binding inter-partes**. We are informed that applications to recall the order dated 16-7-2020 have since been filed but are yet to be considered. Be that as it may."
>
> (emphasis supplied)

34. The gist of the judgements of the Supreme Court in ***K.L. Rathi Steels-II*** and ***Tejpal*** is that an order would not be reviewed or recalled because of any subsequent change in law. An order passed by a Court following a judicial precedent would not be reviewed on the ground that it suffers from error apparent on the face of record because the exposition of law relied by the Court has been overruled by a Superior Court or a larger Bench of the same Court. When a case is overruled, it is only its binding nature as a precedent that is taken away but the lis between the parties is still deemed to have been settled by the overruled case. Further, an order or decree of a Court, even if wrong, is binding on the parties until it is set aside by an appellate court or through other remedies provided in law. Hence, when ***Manoharlal*** overruled ***Pune Municipal Corporation*** and all other judgements which followed it, ***Manoharlal*** only overruled the precedential value of ***Pune Municipal Corporation*** and did not reopen the lis between the parties. However, where the lis was still pending and had not reached finality, cases would be decided on the basis of ***Manoharlal***.

35. In the present case the special leave petition filed against the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015 was dismissed by the Supreme Court vide its order dated 12.09.2017. No review or recall application was filed either for review or for recall of the order passed by the Supreme Court. The list between the petitioner/applicant on one hand and the State and its authorities on the other hand had already attained finality by the order dated 12.9.2017.

36. In ***K.L. Rathi Steels, Tejpal*** and ***BSK Realtors*** the land appropriating authorities had filed appeals or review/recall applications arguing that the orders passed by the writ Courts or the Supreme Court following the dictum of ***Pune Municipal Corporation*** stood effaced as a result of the judgements in ***Shailendra-I, Shailendra-II*** and ***Manoharlal.*** Still the appellants and review/recall applicants in ***K.L. Rathi Steels-I*** and ***II***, ***Tejpal***

and ***BSK Realtors*** approached the Supreme Court for recall and for setting aside the orders of different Courts passed after following the dictum of ***Pune Municipal Corporation***. The opposite parties in the present contempt application are more imaginative than the appellants and the review/recall applicants in ***K.L. Rathi Steels-I*** and ***II***, ***Tejpal*** and ***BSK Realtors***. They defend non-compliance of the order passed by the writ Court on the ground that after being overruled ***Pune Municipal Corporation*** and all other judgements which followed it lost their binding effect. Thus the order 27.7.2016 passed by this Court in Writ-C No. 62677 of 2015 also lost its binding effect and the opposite parties are not obliged to comply with the order. The opposite parties seek refuge under Articles 141 and 144 of the Constitution of India and plead that ***Manoharlal*** is the law under Article 141 of the Constitution of India and ***Pune Municipal Corporation*** is not operative. They plead that under Article 144 of the Constitution, the executive authorities-the opposite parties-in the present case are obliged to enforce the law as laid down by ***Manoharlal***, therefore, they can not act in compliance of the order passed by this Court. The argument of the opposite parties is a fallacy. It has been held by the Supreme Court in numerous cases and in cases referred above that even an erroneous order or decree of a Court is binding on the parties and is to be enforced till it is set aside by a superior Court in appeal or through other remedies provided in law. Overruling a judgement only takes away its precedential value and does not nullify the final adjudication between the parties and the lis between the parties is still deemed to have been settled by the overruled case because mere overruling a case does not amount to reversal of a decree or order. As held by the Supreme Court in ***K.L. Rathi Steels-II*** and ***Tejpal***, the judgement in ***Mahnoharlal*** only reviewed the precedential value of ***Pune Municipal Corporation*** and other cases which relied on it but did not reopen the lis between the parties and did not nullify the orders passed by the Courts following ***Pune Municipal Corporation***. Accepting the fallacy pleaded by the opposite parties would amount to reviewing and recalling and thereby nullifying not only the order passed by this

Court but also the order dated 12.9.2017 passed by the Supreme Court dismissing the Special Leave Petition filed by the State against the order of the writ Court. A contempt Court has no jurisdiction to nullify an order of the writ Court. The opposite parties cannot refuse to comply with the order dated 27.7.2016 passed by the writ Court and the plea of Article 141 and 144 by the opposite parties is misplaced.

37. The ambiguity in the situation as pleaded by the State-respondents due to the judgements of the Supreme Court referred above is an artificial ambiguity pleaded by the State-respondents only to avoid proceedings in contempt. In any case, the legal position was clarified by the Supreme Court in ***Tejpal*** and ***K.L. Rathi Steels*** through its judgements delivered on 17.05.2024. Even a magnanimous consideration of the plea of the State-respondents would not justify condoning their inaction and their non-compliance of the order of the writ Court after the judgements of the Supreme Court in ***Tejpal*** and ***K.L. Rathi Steels (Supra)***. Evidently, the non-compliance by the opposite parties of the order passed by this Court is not bona-fide. The non-compliance is intentional, conscious, calculated and a deliberate act with full knowledge of the consequences. It is apparent that non-compliance was a calculated measure with an intention to deprive the petitioner/applicant the fruits of his success in litigation against the State.The plea of the State-respondents that they cannot be held liable for willful disobedience of the order passed by this Court because of ambiguity in the legal position due to the judgements of the Supreme Court is liable to be rejected. Sophistries are not good defense in contempt.

38. At this juncture, it would be relevant to take note of the orders dated 28.4.2022 and 6.5.2022 passed by this Court in the present proceedings. The orders have already been reproduced before. A perusal of the aforesaid orders would clearly show that this Court had taken a strict view of the act of the respondents in not complying with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015. Infact, the explanation by the

opposite parties that the non-compliance was because there was some dispute between two different departments of the State as to their liability to implement the order was rejected by this Court and further time was granted to the Additional Chief Secretaries of the Irrigation Department and Uttar Pradesh Urban Development Department to ensure compliance of the order passed by this Court. In its order dated 6.5.2022 this Court recorded the assurance given by the then Chief Standing Counsel that the order of the Court shall be complied within one week from the date. The assurance has not been honoured by the State-respondents. Apparently, all tricks have been employed by the State-respondents to prevent implementation of the order of this Court and deprive the petitioners of their claim as acknowledged and recognized by this Court through its order dated 27.07.2016 passed in Writ-C No. 62677 of 2015.

39. Similarly, the plea on behalf of the State-respondents that the contempt petition was not maintainable as contempt jurisdiction cannot be used for execution or implementation of the order passed by a writ Court is also rejected. Execution or implementation of an order may be incidental to actions taken by a Court in contempt proceedings to prosecute the person who was obliged and who failed to comply with the order of the Court. The said consequence does not convert contempt jurisdiction into an execution jurisdiction. It is the failure to implement the order of this Court which results in contempt proceedings drawn against the erring officer.

40. For all the aforesaid reasons, it is held that the failure of the State-respondents in complying with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015 amounts to willful disobedience of the Court and amounts to contempt for which they may be liable to be prosecuted and punished.

41. It was observed by the Supreme Court in ***Ram Kishan Vs. Tarun Bajaj and Others, (2014) 16 SCC 204*** that the rationale for contempt jurisdiction was that respect and authority

commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of judiciary is undermined.

42. Similarly the Supreme Court in ***Kapildeo Prasad Sah and Others Vs. State of Bihar and Others, (1999) 7 SCC 569*** observed that disobedience of the court's order strikes at the very root of rule of law on which Indian system of governance is based. It was observed that power to punish for contempt is for the maintenance of effective legal system and it is exercised to prevent perversion of the course of justice. It was further observed that the jurisdiction to punish for contempt exists to provide ultimate sanction against the person who refuses to comply with court’s order or disregards the order continuously. No person can defy the orders of the court.

43. However, considering the circumstances of the case, I refrain, at this stage, from charging the opposite parties for contempt of this Court and consider it appropriate that further time be granted to the opposite parties for compliance of the order passed by this Court. It is also noted that the Chief Secretary, Government of Uttar Pradesh who is also responsible to ensure compliance of the order of the Court had no notice of the present proceedings.

44. At this juncture, it is relevant to take note of the order dated 28.4.2022 passed by this Court which shows that on the pretext of some inter-departmental dispute regarding the authority which was responsible to implement the order passed by this Court, the officers of the State avoided implementation of the order passed by this Court. An order of a writ Court passed against any officer of the State, unless it is an order against the said officer in his personal capacity, is an order to the concerned officer as a representative of the State. Any order to an officer of the State is an order to the State itself and all officers of the State who in their official capacity have any role to ensure implementation of the order of this Court, are bound to comply with the order and ensure

its compliance. The different departments of the State are constituted only for administrative convenience and distribution of work to facilitate speedy and expeditious disposal of Government work. The distribution of work between the different departments of the State Government cannot be used as a pretext to not implement the order of this Court. It is the duty of the State Government to ensure full compliance of the order passed by this Court. In case of any non-compliance because of any confusion in the administrative machinery of the State Government regarding the department or officer who is responsible to ensure compliance would make the highest officer of the State responsible and liable in contempt. The present petiton arises from land acquisition proceedings. The land acquired under Act, 1894 or Act, 2013 vests in the State and it is the State which is primarily liable to pay compensation for the acquired land. In view of the aforesaid, and in the facts and circumstances of the present case it would be the Chief Secretary, Government of Uttar Pradesh who would be liable for contempt of this Court in case the order passed by this Court is not complied.

45. In light of the aforesaid, the Chief Secretary, Government of Uttar Pradesh, Additional Chief Secretary, Department of Irrigation, Government of Uttar Pradesh, Additional Chief Secretary, Urban Development, Government of Uttar Pradesh and the District Magistrate, Prayagraj are granted one month’s further time to comply with the order dated 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015.

46. On the next date fixed the Chief Secretary, Government of Uttar Pradesh, Additional Chief Secretary, Department of Irrigation, Government of Uttar Pradesh, Additional Chief Secretary, Urban Development, Government of Uttar Pradesh and the District Magistrate, Prayagraj shall either file their compliance affidavit showing full compliance of the order 27.07.2016 passed by this Court in Writ-C No. 62677 of 2015 or shall be personally present in the Court for framing of charges.

47. List again on ***05.01.2026*** before the appropriate Court. The matter shall not be treated as tied up or part heard with this Court.

48. The Registrar (Compliance) shall send a copy of this order to the Chief Secretary, Government of Uttar Pradesh, Additional Chief Secretary, Department of Irrigation, Government of Uttar Pradesh, Additional Chief Secretary, Urban Development, Government of Uttar Pradesh and the District Magistrate, Prayagraj within 24 hours.

(Salil Kumar Rai,J.)

November 28, 2025
Anurag/-