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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Judgment pronounced on: 24.12.2024**

+ **W.P.(C) 8214/2013, CMAPPLs.17325/2013, 5875/2014, 10618/2016**

M/S EVINIX DESIGNS CONCEPTS P LTD. ....Petitioner  
versus

LT. GOVERNOR NCT OF DELHI & ANR ....Respondents

+ **W.P.(C) 8217/2013, CM APPLs.17331/2013, 5878/2014, 14601/2014, 10615/2016**

M/S AIC DEVELOPERS (INDIA) PVT. LTD. ....Petitioner  
versus

LT. GOVERNOR NCT OF DELHI & ANR ....Respondents

+ **W.P.(C) 8218/2013, CM APPLs. 17333/2013, 5874/2014, 15861/2014, 18529/2014, 19576/2014, 10614/2016**

M/S AMAR DYEING WORKS ....Petitioner  
versus

LT. GOVERNOR NCT OF DELHI & ANR ....Respondents

+ **W.P.(C) 8216/2013, CM APPLs. 17329/2013, 5877/2014, 10619/2016**

M/S ANNAPOORNA  
INDUSTRIAL CORPORATION ....Petitioner  
versus

LT. GOVERNOR NCT OF DELHI & ANR ....Respondents

+ **W.P.(C) 119/2014, CM APPLs.205/2014**

PANKAJ TANDON & ORS ....Petitioners  
versus

LT GOVERNOR OF NCT OF DELHI & ANR ....Respondents



2024:DHC:9981



+ W.P.(C) 8215/2013, CM APPLs. 17327/2013, 5876/2014, 10616/2016

M/S RISHYAB INFRATECH PVT. LTD.

.....Petitioner

versus

LT. GOVERNOR NCT OF DELHI & ANR

....Respondents

**Present:** Mr. S.K. Rout, Mr. Aman Mehrotra, Mr. Achin Saxena and Mr. Rahul Kumar, Advocates for petitioner in W.P.(C) 8214/2013, W.P.(C) 8217/2013, W.P.(C) 8218/2013 and W.P.(C) 119/2014.

Mr. Aaditya Vijay Kumar and Ms. Navya Nanda, Advocates for petitioner in W.P.(C) 8216/2013.

Ms. Pooja M. Saigal, Mr. Jatin Dua and Ms. Kaveri Rawal, advs. Mr. S.K. Rout, Mr. Ganesh Singh, Mr S.K. Rai, Ms. Dimple Dhamija, Mr. Aman Mehrotra, Mr. Rahul Kumar and Mr. Achin Saxena, Advs. for petitioner in W.P.(C) 8215/2013.

Mr. Sanjay Kumar Pathak, SC, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Nidhi Thakur and Mr. Mayank Arora, Advocates for UOI/LAC/GNCTD.

Mr. Tarun Johri, Mr. Ankur Gupta and Mr. Vishwajeet Tyagi, Advocates for DMRC.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SACHIN DATTA**

### **JUDGMENT**

**SACHIN DATTA, J.**

1. The petitioners have filed the present petitions impugning an award bearing number 08/2013-2014 dated 30.12.2013 (hereafter '*the Award*'), issued under the Land Acquisition Act, 1894 (hereafter '*the LA Act, 1894*'),



2024:DHC:9981



whereby a parcel of land measuring 2971.533 square meters located in Khasra No. 576/2 Min, situated in village Bahapur, Okhla, New Delhi, was acquired.

2. At the outset, it is noticed that the factual matrix is identical in all these petitions. There are six distinct petitioners (in each of these petitions) impugning the same award, and all respondents in these petitions are common.

3. For the sake of convenience, W.P.(C) 8214/2013 captioned as *M/s Evinix Designs Concepts Pvt. Ltd. v. Lt. Governor, N.C.T. Of Delhi & Ors.*, is taken up as the lead matter. The reference to the facts as noted, unless the context indicates otherwise, are the facts as obtaining in the said petition.

4. Notification No. F7(19)/11/L&B/LA/MRTS/7343 dated 13.08.2013 was issued under Section 4 of the LA Act, 1894, for the acquisition of a parcel of land measuring 2971.533 square meters, identified as Khasra No. 576/2 Min in the village of Bahapur, for a public purpose. A declaration under Section 6 of the LA Act, 1894, was subsequently published on 26.09.2013. On the same date, a notification under Section 17(1) was also issued by Respondent No. 2 and published in the newspaper. On 14.12.2012, before the notification under Section 4 of the LA Act, 1894 was issued, a survey of Khasra No. 576/2 Min in Village Bahapur was conducted by the respondent no. 1 and the Executive Engineer of respondent no.3. Another survey was conducted thereafter on 11.10.2013 by officers of respondent no. 2 (Land Acquisition Collector) and respondent no. 3 (Delhi Metro Rail Corporation).



5. These notifications and proceedings are not contested by the petitioner. However, apprehending that the Respondent No. 2 might attempt to take possession under Section 17 (1) of the LA Act, 1894 without fulfilling the requirements under Section 9 of the LA Act, 1894, the petitioner filed the present petition on 20.12.2013. It was prayed as under –

*“(a) issue an appropriate writ, order or direction directing respondent No. 2 to give complete particulars of the area of land and building in the occupation of petitioner forming part of Khasra No. 576/2 Min and grant 15 clear days’ time to the petitioner to submit his claim of compensation in respect.*

*“(b) issue an appropriate writ, order or direction in the nature of mandamus prohibiting the respondent No. 2 or any of his nominees from taking further proceedings including adjudication of the claims of compensation in respect of land and building of the petitioner comprised in Khasra No. 576/2 Min.”*

6. At the time of filing the present petition, the impugned award had not yet been passed. Consequently the petitioner’s prayer was confined to seeking a direction to the respondent to issue a notice under Section 9 of the LA Act, 1894, and to ensure that the petitioner was granted a clear 15-day period from the date of issuance of the said notice before the respondent proceeded to take possession under Section 17(1) of the Act.

7. By the order dated 20.12.2013, this Court, directed as under :

*“Re-notify on 23<sup>rd</sup> December, 2013 before the Vacation Bench. In the meanwhile, status-quo as obtaining at 2.50 PM today shall be maintained till further orders of the Court”*

8. The petitioner’s grievance with the impugned Award dated 30.12.2013 was first ventilated during the proceedings on 21.02.2014. This Court vide Order dated 21.02.2014, recorded the submissions of both the parties as under –

*“The learned counsel for the petitioners have submitted that section 24(1)(a) of the Right to Fair Compensation and Transparency in Land*



Acquisition, Rehabilitation and Resettlement Act, 2013 would get attracted in these cases inasmuch as according to them no award under section 11 of the Land Acquisition Act, 1894 had been made as on 01.01.2014 when the 2013 Act came into operation.

*The learned counsel appearing on behalf of the respondents state that section 24(1)(a) referred to above would not apply inasmuch as the award was made on 30.12.2013. However, Mr Bachawat, the learned senior counsel appearing on behalf of some of the petitioners placed reliance on the decision of Supreme Court **PremjiNathu v. State of Gujarat Anr. : JT 2012 (4) SC 76**, to contend that the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector. It must involve the communication of the award to the said party concerned either actually or constructively. According to Mr Bachawat the award was not communicated to any of the petitioners by 01.01.2014 and therefore the award could not said to have been made. The learned counsel for the respondents shall file additional affidavit with regard to the factual position concerning the making of the award and shall also be permitted to make submissions on the applicability of the judgment of **Premji Nathuji** (supra) to the facts of the present case.*

*(emphasis supplied)*

9. In compliance with the order dated 21.02.2014, the respondent filed an additional affidavit dated 01.04.2014, providing a detailed account of the factual position regarding the issuance of the award. Thereafter a reply, dated 22.05.2024, to the said additional affidavit was filed by the petitioner.

10. Meanwhile, the petitioner and the respondent no. 3 (DMRC) engaged in inter-se discussions with a view to seek an amicable resolution of the matter. This was recorded by this Court in Orders dated 28.05.2014, 24.07.2014 and 31.07.2014. These discussions culminated in an agreement dated 01.09.2014, whereby the petitioner and respondent no. 3 reached a settlement regarding possession of the disputed property. Under the agreement, the petitioner consented to transfer possession of the land and buildings under acquisition in exchange for DMRC's commitment to allot



commercial space to the petitioner, subject to the terms and conditions outlined in the agreement. This settlement was duly recorded by this Court in its order dated 09.09.2014. The operative portion of the said order is reproduced as under –

*“During the pendency of these writ petitions the petitioners (including the landlord and tenants) on the one side and DMRC (respondent No.3) on the other side have entered into a distinct agreement regarding possession in consideration of DMRC agreeing to allot commercial space to the petitioners. The petitioners have agreed to give possession of the land and buildings under acquisition on the terms and conditions as detailed in the agreement regarding possession entered upon by the parties on 01.09.2014, the original of which has already been taken on record and is in the court file. The terms and conditions as set out in the said agreement regarding possession are as under:-*

*“1. That DMRC shall allot to the tenants who are petitioners in WP(C) 8214/13 and WP(C) 8216/13 commercial space on the station building as constructed on the said land on pro rata basis and shall hand over possession of the same to the aforesaid petitioners, at the earliest.*

*2. That DMRC shall allot to the tenant who is petitioner in WP(C) 8218/13 and to the landlord who is petitioner in WP(C) 119/14, commercial space on the station building as constructed on the said land on pro rata basis and on the inter se ration of 51%:49% between tenant/petitioner in WP(C) 8218/13 and landlord/petitioner in WP(C) 119/14 and shall handover possession of the same to the aforesaid petitioners at the earliest.*

*3. That the cost of the commercial space shall be paid by the petitioners to DMRC in WP(C) 8214/13, WP(C)8216/13, WP(C) 8218/13 and WP(C) 119/14 on pro rata basis as to the actual cost of land acquisition plus actual cost of construction.*

*4. That the issue of the quantum of compensation shall be as decided by Hon'ble High Court in WP(C) 8214/13, WP(C) 8215/13, WP(C) 8216/13, WP(C) 8217/13, WP(C) 8218/13 and WP(C) 119/14.*

*5. The amount deposited by DMRC with the LAC on 30.01.2013 and 25.09.2013 would be given to the petitioners in WP(C) 8214/13, WP(C) 8215/13, WP(C)8216/13, WP(C) 8217/13, WP(C) 8218/13 and WP(C)119/14 which would be accepted by the petitioners subject to their rights and contentions under the law. This payment would be considered as part payment to the*



*petitioners as per their entitlement under the Land Acquisition Act, 1894 or as determined by the Hon'ble High Court of Delhi in the aforesaid Writ Petitions.*

*6. The petitioners, their agents, representatives and their employees would hand over the land/property in question to DMRC at the earliest and not later than 2 weeks from the date of the court's order.*

*7. This agreement shall not come in the way of petitioners so as to deprive them of their claims on the basis of challenge to the proceedings subsequent to the notification u/s 6 of the 1894 Act and claiming various reliefs thereof including that the claim for compensation under the 2013 Act including the genuineness of the alleged award and its maintainability in law as an award."*

*We have examined the said agreement and the terms and conditions and found the same to be lawful. All the parties who have signed the agreement on the side of the petitioners are represented through counsel and they confirm to stand by the said agreement. Consequently, the parties are bound by the said agreement regarding possession and they undertake to abide by the same in letter and spirit. This agreement shall supersede the interim orders granted by this court from time to time.*

*The learned counsel for DMRC states that this agreement has been entered into with the petitioners in view of the extreme urgency and special requirements of this case. Consequently, this agreement shall not be treated as a precedent.*

*We also make it clear that the land acquisition collector shall release the amount deposited by DMRC to the petitioners in terms of the agreement within three weeks from today provided that the petitioners comply with the formalities such as supplying of requisite documents within one week from today."*

11. In the meantime, in view of the intervening developments, this Court, by order dated 21.08.2014 directed as follows:

*"The petitioners would have to amend the writ petition in view of the subsequent developments. Appropriate applications would be filed by the petitioners within a week."*

12. Consequently, the petitioner filed an amended writ petition dated 03.09.2014 praying as under –

*"(a)hold that the alleged / impugned award made by the Respondent No. 2 on 30.12.2013 pursuant to the notifications u/s 6 and 17(1)*



*dated 20.9.2013 in respect of total area 2971.533 sq. mtr. in 576/2 min is not genuine, non-est and of no legal consequence;*

*(b) issue an appropriate writ, order or direction in the nature of mandamus directing respondent No.2 to determine the entitlement of the petitioner to compensation in accordance with the provisions of the New Act i.e., The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the land / portion of land forming subject matter of notifications u/s 6 & 17(1) dated 20.9.2013 under the Repealed Act, by following the procedure laid down in the New Act”*

13. It is in the above conspectus that the petitioner’s challenge to the validity of the award dated 30.12.2013 arises for consideration, and the consequential relief sought by the petitioner viz. whether the petitioner is entitled to claim compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter ‘*the LA Act, 2013*’).

### **SUBMISSIONS ON BEHALF OF THE PETITIONER**

14. The petitioner acknowledges that, in the present case, there is no challenge to the validity of any of the notification/s issued under the LA Act, 1894, nor is there any objection to the acquisition proceedings. The petitioner’s case is based on the contention that they are entitled to compensation under the LA Act, 2013, and not the LA Act, 1894, as per Section 24(1) of the LA Act, 2013. This Section stipulates that if no award under Section 11 of the LA Act, 1894 has been made, all provisions of the LA Act, 2013 relating to the determination of compensation shall apply.

15. According to the petitioner, Section 24 (1) of the LA Act 2013 is applicable in the present case because (i) the impugned award dated





2024:DHC:9981



30.12.2013 is invalid and (ii) even if the award is assumed to be valid, the petitioner contends that it is antedated, suggesting it was not actually passed on 30.12.2013 but rather at a later date, after the commencement of the LA Act, 2013. Consequently, it is submitted that the provisions of the LA Act, 2013 would apply to determine the compensation due for the acquisition of the petitioner's land.

16. It has been asserted by the petitioner that :-

a. The petitioner was not served notice under Sections 9 and 10 of the LA Act, 1893. To substantiate this contention, the petitioner asserts the following –

i. As a permanent tenant and owner of a building on land measuring 1485 sq. meters (Khasra No. 576/2 Min), the petitioner is a “person interested” under Section 9 of the LA Act, 1894. It is averred that the respondents have verified and acknowledged the petitioner's occupancy through two survey reports. However, the petitioner claims that no notice under Sections 9 and 10 of the Act was served on him regarding the acquisition.

ii. It is submitted that the respondents were aware of the petitioner's occupation and its legal implications, yet have knowingly chosen not to issue a notice directly to the petitioner, instead sending notice to the landlord, whose interests are adverse to the petitioner.

iii. The petitioner made repeated written requests for a copy of the notice and for access to inspect the relevant file on 23.12.2013, 24.12.2013, and 26.12.2013. These requests were ignored, further obstructing the petitioner from filing objections, which, according



- to the petitioner, evidences a malicious intent by Respondent No. 2 to prevent the petitioner from exercising their rights.
- iv. The petitioner contends that Respondent No. 2 has suppressed facts and fabricated evidence in their response, specifically by falsely claiming that notices under Sections 9 and 10 were served on 03.12.2013, when postal records show that the notices were dispatched on 17.12.2013.
- v. Citing the Supreme Court ruling in *Ramjas Foundation v. Union of India* JT 2010 (12) SC 134, the petitioner asserts that respondent no. 2's actions vitiates the impugned award.
- vi. Section 9 of the Act mandates that notice must be served on interested persons, detailing the land measurements, personal hearing details, and providing 15 days to submit compensation claims. However, the petitioner claims that no proper notice, under Sections 9 and 10, was served, and that the notice/s, allegedly issued, was deficient, and did not even mention the date and time for personal hearing.
- b. The petitioner further submits that the impugned award lacks proper approval. Further, under Section 12(1) of the Act, an award must be communicated to the affected parties to become effective. The petitioner argues that an award, as a statutory offer from the state, is meaningless if not properly communicated. Reliance has been placed on *Premji Nathu v. State of Gujarat* JT 2012 (4) SC 76.
- c. The alleged award date, 30.12.2013, conflicts with a status quo order, indicating an attempt to bypass the Court's instructions and proceed with the acquisition unlawfully. Citing *Roshanara Begum v. Union*



*of India* 1995 SCC OnLine Del 849, the petitioner asserts that awards made in violation of Court orders are non-existent in law.

17. It is further contended that the award was not actually passed on 30.12.2013 but rather, after the commencement of the LA Act, 2013. The petitioner contends that no award was legitimately issued by the respondent for the land in question before the enactment of the LA Act 2013 on 01.01.2014. The petitioner disputes that the award was made on 30.12.2013, on the basis that :-

- i. The respondent's own affidavit dated 8.1.2014, ambiguously refers to "an award, if any," and does not mention anything about the impugned award, suggesting that an award may not have been made by that time.
- ii. Inspection records show that a neighbouring landowner was denied access to the acquisition file until 09.01.2014, which the petitioner claims indicates that no award existed till 09.01.2014.
- iii. The repeated requests by the petitioner for inspection and notification (dated 23.12.2013, 24.12.2013, and 26.12.2013) were ignored. The petitioner argues this omission violates statutory requirements and natural justice, rendering the award and related proceedings invalid.

18. Additionally, in order to counter the averments of the respondent No.2 that it took actual physical possession of the property on 20.12.2013, relying on a *Panchnama*, the petitioner submits that the *Panchnama* is unsigned by independent witnesses, incorrect, and allegedly drafted after a Court order to maintain the status quo was issued. The petitioner submits that the petitioner has held possession of the land as a permanent tenant since 1958 and later



2024:DHC:9981



entered into an agreement on 01.09.2014 with Respondent No. 3 to hand over possession.

## **SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 2**

19. In response to the petitioner's contentions regarding compliance with the provisions of Sections 9 and 10 of the LA Act, 1894, the respondent has concluded as under:-

- i. Proper notices under Sections 9 and 10 were issued on 03.12.2013, calling parties to submit their claims by 19.12.2013. Notices were reportedly sent via speed post and were also publicized on-site. The respondent acknowledges that some notices inadvertently omitted the appearance date but argues that the notices still enabled sufficient identification of the land and were clearly comprehensible, thereby fulfilling legal requirements.
- ii. The respondent insists the petitioner had prior knowledge of the proceedings through notices and direct communication. They argue that the petitioner's claim of not receiving notices or being unaware of the land acquisition is groundless, as the petitioner had previously interacted with the Land Acquisition Collector (LAC) for inspection.
- iii. The respondent emphasizes that any procedural irregularities in the notices, such as missing details or inadvertent errors, would not nullify the acquisition. Further, reliance has been placed on *May George vs. Special Tehsildar*, (2010) 13 SCC 98 to argue that procedural lapses in the notice do not invalidate the award.
- iv. The respondent challenges the petitioner's right to claim ownership, noting that the petitioner's lease expired in March 2012,



2024:DHC:9981



well before the acquisition notice in 2013. Furthermore, the petitioner only held an unregistered and inadequately stamped lease deed, making it inadmissible under Section 49 of the Registration Act. Ownership of the land was actually under Rishyab Infratech Private Limited, which was duly notified of the acquisition, and the petitioner was neither the recorded owner nor an authorized claimant.

v. A survey was conducted prior to the Section 4 notification to identify all stakeholders and their claims, with ample time given for objections and submissions. The petitioner did not furnish valid documents proving entitlement or ownership in this process.

vi. The respondent highlights that compensation for the acquired land was determined at ₹38,500 per square meter, as set in Award No. 08/2013-14, on December 30, 2013. It is submitted that the award was duly made on that day. They argue that the petitioner has the right to seek enhanced compensation if dissatisfied; however, the same has no impact on the validity of the acquisition. Additionally, it is submitted that the award is an “offer” from the state, and if disputed, it is open to the petitioner to take recourse to proceedings under Section 18, rather than contesting the acquisition itself.

vii. It is submitted that the acquisition is for public benefit and planned urban development, prioritizing DMRC’s expansion in the public interest. While refuting the petitioner’s contentions regarding alleged procedural irregularities, it is submitted that the same do not, in any case, cannot afford any ground for assailing the award or any of the notification/s. Reliance in this regard has been placed on *Rajinder Kishan Gupta & Another v. UOI* 2010 (9) SCC 46.



20. The respondents argue that the petitioner's reliance on *Premji Nathu* (supra) is misplaced, as that case addressed the specific context of limitation under Section 18. In *Premji Nathu* (supra), the Court interpreted the "date of the award" to mean the date on which the award is communicated to the landowner, particularly in cases where the right to seek enhanced compensation is involved. It is contended that *Premji Nathu* (supra) has no bearing on whether the award was validly made.

21. The respondent submits that the LA Act, 1894 governs the current proceedings. Section 24 of the LA Act, 2013 applies only when no award has been made under the LA Act 1894. Since the award in question was issued before the LA Act 2013 took effect, the petitioner's entitlement to compensation cannot be assessed on the basis of the 2013 Act.

### **SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 3**

22. The respondent No. 3 also relies on *May George* (Supra), asserting that the provisions of Section 9 of the LA Act, 1894, are directory in nature and that non-compliance thereof, does not, in law, invalidate the acquisition proceedings.

23. It is submitted that the Respondent no.3 required the land measuring 2971.533 square meters at Village Bahpur (bearing Khasra No. 576/2) for Okhla Vihar Phase II Metro Station construction, for which the relevant authorities handed over the land to Respondent No.3 on 20.12.2013. Following possession, respondent no.3 demolished parts of the boundary wall, secured the premises, and employed guards at the gate.

24. It has been averred that although the petitioner initially raised objections based on a status quo order by the Court, respondent no.3 and the



2024:DHC:9981



petitioner later agreed to an arrangement that allowed the handover of the land in question under specified terms. The Court accepted this agreement, vacating interim stay orders and allowing Respondent No.3 to proceed with possession for the project.

25. Respondent No.3 asserts that the Collector had full authority to pass the award under Section 11 on 30.12.2013.

26. Additionally, it is submitted that the petitioner was aware of the award and failed to approach the appropriate forum for claim determination.

### **FINDINGS AND REASONING**

27. At the outset, it is important to note that the petitioner has made a categorical statement that it does not wish to challenge the validity of any notification issued under the LA Act, 1894 or the acquisition proceedings themselves. It has been averred in unambiguous terms in the amended writ petition as under:-

*“It is relevant to submit here that the petitioner in the present case is neither challenging the vires of any notification under the repealed act, nor assailing the acquisition proceedings.”*

28. The challenge in the present petition is on account of :-

- i. alleged non adherence to provisions of Section 9 of the LA Act, 1894.
- ii. the alleged non-communication of the award till much after the 30.12.2013 (the date of the award) on account of which, it is contended that the award cannot be considered to have been duly made on 30.12.2013. It is contended, relying upon ***Premji Nathu*** (supra) that the award is required to be communicated to the persons interested, for it to be effective.



2024:DHC:9981



- iii. the allegation that the award has been antedated and/or it has been issued in violation of *status quo* orders passed by this Court, as a result of which it is *non-est* and, therefore, in the absence of a validly issued award prior to 01.01.2014, the LA Act 2013 becomes *applicable* for the purpose of assessing the compensation payable to the petitioner.

29. As regards the alleged non-adherence to the provisions of Section 9 of the LA Act, 1894, it has been stated in the counter-affidavit filed on behalf of the respondent no.2 that notices under Section 9 & 10 were issued on 03.12.2013 calling upon the parties to appear before the LAC on 19.12.2013 with their claims. It is further averred that the said notices were duly sent through speed post and were also served upon the affected parties in the usual course. Along with the counter-affidavit the respondent no.2 has enclosed the proof of issuance of notices on 03.12.2013.

30. The petitioner has found fault with the aforesaid notice/s on the ground that the same was not addressed to the petitioner but to the landlord of the property in question. It is notable, however, that the present writ petition was filed on 20.12.2013 by the petitioner, having learnt that notices have been served on his neighbour (as stated in Para F of the rejoinder filed on behalf of the petitioner on 18.02.2014). The instant writ petition was filed by the petitioner on the apprehension that the petitioner would be divested of possession without valid notice under Section 9 of the LA Act, 1894.

31. From the sequence of events, it is evident that the respondent clearly had knowledge of the acquisition process and was aware that the possession





was proposed to be taken pursuant to notices in this regard being issued by the respondent no.2.

32. It is also a matter of record that the petitioner had participated in the joint surveys conducted by the respondents and had interactions with the Land Acquisition Collector in the process leading upto issuance of the notification under Section 4, 6 and 17(1) of the LA Act, 1894.

33. Section 9 of the LA Act, 1894 is in the following terms:-

*“9. Notice to persons interested. - (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations for all interests in such land may be made to him.*

*(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.*

*(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.*

*(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in letter addressed to him at his last known residence, address or place or business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)].”*

34. The scope and ambit of the aforesaid provision has fallen for consideration in numerous judicial pronouncements, It has been



conclusively held by the Supreme Court in *May George* (supra), that even if there was some infirmity/procedural lapse in the notices issued under Section 9(3), the same would not invalidate the acquisition process or the resultant award. It has been held therein as under –

*“14. Section 9 of the Act provides for an opportunity to the “person interested” to file a claim petition with documentary evidence for determining the market value of the land and in case a person does not file a claim under Section 9 even after receiving the notice, he still has a right to make an application for making a reference under Section 18 of the Act. Therefore, the scheme of the Act is such that it does not cause any prejudicial consequence in case the notice under Section 9(3) is not served upon the person interested.”*

35. Relying upon a catena of judgments including in *Dattatraya Moreshwar v. State of Bombay*, AIR 1952 SC 181, *State of UP v. Babu Ram Upadhya*, AIR 1961 SC 751, *Raza Buland Sugar Co. Ltd. v. Municipal Board, Rampur*, AIR 1965 SC 895, *State of Mysore v. V.K. Kangan*, (1976) 2 SCC 895, *Sharif-ud-Din v. Abdul Gani Lone*, (1980) 1 SCC 403, *Balwant Singh v. Anand Kumar Sharma*, (2003) 3 SCC 433, *Bhavnagar University v. Palitana Sugar Mill (P) Ltd.*, (2003) 2 SCC 111, *Chandrika Prasad Yadav v. State of Bihar*, (2004) 6 SCC 331, *Rubber House v. Excelsior Needle Industries (P) Ltd.*, (1989) 2 SCC 413, *B. S. Khurana v. MCD*, (2000) 7 SCC 679, *State of Haryana v. Raghubir Dayal*, (1995) 1 SCC 133 and *Gullipilli Sowria Raj v. Bandaru Pavani*, (2009) 1 SCC 714, it was further held that Section 9(3) is only directory and not mandatory in nature and that “*failure of issuance of notice under Section 9(3) would not adversely affect any subsequent proceedings including the award and the title of the Government in the acquired land*”.



2024:DHC:9981



36. The primary purpose of a notice under Section 9 is to inform interested parties that their land is proposed for acquisition by the government. As already observed, the facts of this case clearly indicate that the petitioner became aware of the notice well before the passing of the award, as evidenced by the filing of the writ petition. Also, the Act does not prescribe any limitation regarding the dispatch of such notices. The only requirement postulated under Section 17 is that possession of the land may be taken only after the expiry of 15 days from the issuance of the notice.

37. In the present case, as noticed, the petitioner has neither challenged the acquisition proceedings nor the ultimate taking over of possession of the land by the DMRC, pursuant to an agreement with the petitioner. In terms of the judgment in *May George* (supra), the award cannot be set aside solely on the ground of alleged infirmity in the notices under Section 9 and 10 and/or on the ground that they were dispatched on a date subsequent to its issuance, as alleged.

38. There is also no merit in the contention that the award cannot be said to have been made on 30.12.2013. This contention is premised on the assertion that the petitioners were communicated/became aware of the said award only on 09.01.2014.

39. In *Kaliyappan v. State Of Kerala & Ors* 1988 SC OnLine SC 301, the Supreme Court has held that the date on which the award is signed by the Collector is considered the date of making the award. The Court emphasized that the purpose of issuing notice under Section 12 is to inform the party concerned of the award so that they may decide whether to accept the compensation or pursue a reference for enhanced compensation. The Court further clarified that any delay or irregularity in serving notice under Section



12 does not invalidate the award. The relevant portion of the said judgment is as under: –

*“3. The contention of the petitioner and his wife before the High Court was that the notice of the award having been served on him on 30-9-1986 it must be held that the award was actually made on 30-9-1986 and since more than two years had elapsed from 24-9-1984, from the date on which the Land Acquisition (Amendment) Act, 1984 came into force by the time the notice of award was served on him, the acquisition proceeding should be declared as having lapsed by virtue of the proviso to Section 11-A of the Act. In support of his contention the petitioner relied upon a decision of this Court in Raja Harish Chandra Raj Singh v. Dy. Land Acquisition Officer [AIR 1961 SC 1500 : (1962) 1 SCR 676] in which this Court had taken the view that for purposes of calculating the period of limitation prescribed for making an application requesting the Collector to refer the question relating to the valuation of the land acquired under the Act to the civil court under Section 18 of the Act, the date on which the notice of the award was served on the owner of the land should be treated as the date of the award and that the period of limitation should be counted from the date of the service of the said notice. Both the learned Single Judge and the Division Bench of the High Court have declined to accept the said contention and we think rightly. Before the insertion of the new section i.e. Section 11-A of the Act there was no provision corresponding to it in the Act which provided for the period within which an award should be passed by the Land Acquisition Officer, that is, the Collector under the Act. Since in a large number of cases there used to be abnormal delay in making the award, Parliament stepped in and introduced Section 11-A to the Act which is set out above. In the Statement of Objects and Reasons attached to the Bill introducing the Land Acquisition (Amendment) Act, 1984 by which Section 11-A was introduced into the Act it was stated that “the pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them”. It was further stated in it that “it is proposed to provide for a period of two years from the date of publication of the declaration under Section 6 of the Act within which the Collector should make his award under the Act. If no award is made within that period, the entire proceedings for the acquisition of the land would lapse”. Pursuant to the above object Section 11-A of the Act was enacted. It provides that the Collector shall make an award under Section 11 of the Act within a period of two years from the date of the publication of the declaration and if no award is made within the period the entire proceedings for the acquisition of land*



*shall lapse. In the case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within two years from such commencement. We are not concerned with the rest of the provisions of Section 11-A of the Act in this case. The crucial words which require to be interpreted are “the Collector shall make an award” appearing in Section 11-A and the words “the award shall be made” in the proviso to Section 11-A. The statute prescribes the maximum period of two years for making an award from the date of the publication of the declaration under Section 6 of the Act and further attaches a condition that if the award is not made within the said period the proceeding for the acquisition of the land shall lapse. Similarly in the case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within two years from such commencement and if the award is not so made the proceeding for acquisition shall lapse. Thus it is seen that the consequence of not making an award within the period of two years from the date of the publication of the declaration or from the date of the commencement of the Act, as the case may be, is that the entire project for which the land is acquired will have to be abandoned or if it is intended to proceed with the project for which the land had been originally notified for acquisition it would become necessary for the Government to restart the proceedings once again with the publication of a fresh preliminary notification under Section 4 of the Act or the corresponding provision in any local statute in force in a State. If the date of the communication of the notice of the award to the person interested in the land is treated as the date of making the award then the maximum period prescribed under Section 11-A of the Act for making the award would get reduced by the period required for serving the notice of the award on the owner of the land. Such maximum period may vary from one case to another. Even in the same land acquisition case if a notice of the award is to be served on two or more persons interested in the land the maximum period for making the award may vary from person to person interested in the property depending upon the date of service of notice of the award on each one of them. If the person interested in the land is an unwilling person who is interested in defeating the land acquisition proceeding it is likely that it may not be possible to serve him with the notice of the award at all within the prescribed time and if he can avoid the service of said notice until the period of two years is over from the date of the publication of the declaration under Section 6 of the Act or the date of commencement of the Land Acquisition (Amendment) Act, 1984, as the case may be insofar as his interest in the land is concerned, the proceedings for the acquisition would lapse thus affecting seriously*



*the public interest. It would also lead to absurd and inconvenient results since the acquisition proceeding may be valid against some persons and may become invalid in the case of some others.*

*4. It is no doubt true that in Raja Harish Chandra case [AIR 1961 SC 1500 : (1962) 1 SCR 676] while construing Section 18 of the Act this Court held by giving an extended meaning that the date of the award for purposes of calculating the period of limitation should be the date on which the notice of the award is served on the owner of the land. The said interpretation was given by this Court on the principle that if a person is given a right to resort to a remedy to get rid of an adverse order within a prescribed time limitation should not be computed from a date earlier than that on which the party aggrieved actually knew of the order or had an opportunity of knowing the order and, therefore, must be presumed to have the knowledge of the order. Under Section 18 of the Act the person on whom the notice of the award is served has to make an application before the Land Acquisition Officer within six weeks from the date of the award if such person was present or represented before the Land Acquisition Officer at the time when he made his award and in other cases within six weeks of the receipt of the notice of the Collector under Section 12(2) or within six months from the date of the award whichever expires first. In a case where a person interested in the land is not present at the time when the award is made by the Collector he is entitled to make an application under Section 18 of the Act seeking a reference of the case to the civil court for the determination of the proper compensation within six weeks of the receipt of the notice from the Collector under Section 12(2) of the Act or within six months from the date of the Collector's award whichever expires first. Since the process of service of notice issued under Section 12(2) would occupy some time this Court was of the view that it would lead to injustice if the period of limitation prescribed by Section 18 of the Act was computed from the date on which the award was actually made and not from the date on which the notice under Section 12(2) of the Act was served on the person interested in the land as it would result in the reduction of the period of six weeks by the time required for serving the notice on the person interested in the land. There is no doubt a difference between the meaning given by this Court in Raja Harish Chandra case [AIR 1961 SC 1500 : (1962) 1 SCR 676] to the words "date of the award" in Section 18 of the Act and the interpretation of the High Court of the words "the Collector shall make an award" or "the award shall be made" in Section 11-A of the Act but such a distinction had to be maintained because the object of and the reason for prescribing the period of limitation under Section 11-A of the Act are different from the object of and the reason for prescribing the period of limitation*



*under Section 18 of the Act and the consequences that would flow from the violation of the rule of limitation in the two cases are also different. In the former case the period of limitation is prescribed for preventing official delay in making the award and the consequent adverse effect on the persons or persons interested in the land but in the latter case the period of limitation is prescribed for providing a remedy to the persons whose lands are acquired to seek a reference to the civil court for the determination of proper and just compensation. Secondly, while in the former case violation of the rule of limitation would result in the acquisition proceeding becoming ineffective, in the latter case such a violation will not have any effect on the validity of acquisition proceeding. Thirdly, while in the former case the period of limitation prescribed represents the outer limit within which an award can be made in the latter case we are concerned with the point of time at which the time to make an application under Section 18 of the Act will begin to run against the person interested in the land. The provisions of Section 11-A have to be construed bearing in mind these points of difference. It is well known that the meaning to be assigned to the words in a statute depends upon the context in which they are found and the purpose behind them.*

*5. Under Section 11-A of the Act the Collector is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration under Section 6 of the Act and in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 before the expiry of the period of two years from the date of its commencement. If an award is not made within the prescribed period of two years in either case, it is open to the person interested in the land to approach the Collector and tell him that the acquisition proceeding should be dropped unless the Collector is able to produce before him an award made by him within the period of two years. He may also in such a case question the continuance of the acquisition proceeding in court. Thus no prejudice will be caused to the person interested in the land. At the same time it would not be open to a person interested in the land to get rid of the acquisition proceeding by avoiding service of notice issued by the Collector within the prescribed period. We are of the view that under Section 11-A of the Act the words "the Collector shall make an award ... within a period of two years from the date of the publication of the declaration" mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the persons interested in the land. "To make an award" in this section means "sign the award". That is the ordinary meaning to be ascribed to the words "to*



make an award”. An extended or a different meaning assigned to the words “the date of the award” by this Court in *Raja Harish Chandra* case [AIR 1961 SC 1500 : (1962) 1 SCR 676] cannot be applied in this case since such an extended or different meaning is neither warranted by equity nor will it advance the object of the statute. Similarly under the proviso to Section 11-A of the Act, the Collector is empowered to make an award within two years from the date of commencement of the Land Acquisition (Amendment) Act, 1984 irrespective of the date on which the notice of award is served on the person concerned. We do not find any analogy between Section 11-A and Section 18 of the Act insofar as the above question is concerned. The High Court was, therefore, right in rejecting the above contention of the petitioner.

40. The Delhi High Court in *Roshnara Begum* (supra), has observed as under –

“131 It was urged before us by counsel for the petitioners in some of the cases that awards were invalid for want of notice under Section 12(2) of the Land Acquisition Act. We have already dealt with this point. It was urged before us, by learned counsel for petitioners that notices under Section 12(2) of the Land Acquisition Act are mandatory and unless the notices of making of the award are received by the petitioners, the awards cannot be deemed to have been made.

132 However, the Supreme Court has already spoken on this point in case of Kaliyappan (supra) that date of signing of the award is the date of making of the award and we have expressed our view that purpose of serving a notice under Section 12 is only to enable the aggrieved interested person to decide whether the compensation given in the award is to be accepted or reference is to be made to the Court concerned for enhancement of the compensation and non-issuance of a notice soon after making of the award does not vitiate the award in any manner which is only an offer of payment of compensation for the land ought to be acquired.

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134. Then, reliance was placed on the judgment given in case of *Raja Harish Chandra* (supra). In case of Kaluyappan (supra) as far as making of the award is concerned, it has been clearly laid down by the Supreme Court that it is the date of the signing of the award which amounts to making of the award and communication of the award is not sine qua-non for making of the award. So, nothing more need be said on this point.”





2024:DHC:9981



41. The judgment in the case of *Premji Nathu (supra)* on which the petitioner has sought to place reliance is clearly distinguishable. The said judgment deals with the issue as to how the limitation is to be reckoned for the purpose of initiating proceedings under Section 18 of the LA Act, 1894. It was in this context that the Court held that a land owner who is not present or has not been represented before the Collector at the time of making of the award should be supplied with a copy thereof, so that he may effectively exercise his right under Section 18(1) to seek reference to the Court. As such, the said judgment is inapplicable to the issue at hand.

42. There is also no merit in the contention of the petitioner that the award is vitiated on account of being in violation of the *status quo* order passed by this Court. As noticed, the only grievance canvassed by the petitioner in the writ petition, as originally filed, was non-adherence to the provisions of Section 9 of the LA Act, 1894. The notification/s under Section 4, 6 and 17(1) were not impugned. The interim order dated 20.12.2013 was in the context of the limited challenge of the petitioner. The same cannot be construed as having interdicted the acquisition process or the issuance of the award.

43. Even assuming that the issuance of award was precluded on account of *status quo* order, the same cannot lead to a situation where compensation payable to the petitioner/ land owner is to be assessed on the basis of the LA Act, 2013 (which is the main prayer under the amended writ petition). It has been held clearly in *Faizabad-Ayodhya Development Authority v. Dr. Rajesh Kumar Pandey*, 2022 SCC OnLine SC 679, that if the award has not been made within the requisite time period on account of proceedings pending in a Court of Law and an interim order granted therein, the



provisions of the LA Act, 2013 would not become applicable merely on account of the award having been not made prior to 01.01.2014. It has been categorically held therein as under :-

*“25. We find that the expression “where no award under Section 11 of the said Land Acquisition Act has been made” has to be read contextually and not by way of a plain reading. This is because a landowner who has an interim order of stay of further proceedings pursuant to the declaration made under Section 6 of the 1894 Act issued by a court of law and has thereby restrained the Collector/Land Acquisition Officer from making an award cannot thereafter by contending that as on 1-1-2014, no award has been made by the acquiring authority seek benefit under the provisions of the 2013 Act by receiving a higher compensation.*

*26. As already noted, Section 24 is in the nature of a saving clause to save all acquisitions initiated under the provisions of the 1894 Act and at the same time, to grant certain reliefs under the provisions of the 2013 Act such as lapse of acquisition under sub-section (2) of Section 24 of the Act or clause (a) of sub-section (1) of Section 24 thereof. Therefore, while applying the said provisions to the facts of each case, it is necessary to bear in mind the contextual interpretation having regard to provisions under both the Acts. This also becomes clear on a reading of clause (b) of sub-section (1) of Section 24 which states that if an award has been made under Section 11 of the 1894 Act as on 1-1-2014 i.e. the date of enforcement of the 2013 Act, then the proceedings shall continue under the provisions of the 1894 Act as if the same has not been repealed. But if no award has been made as on 1-1-2014 then clause (a) of sub-section (1) of Section 24 would apply.*

*27. Thus, it is necessary to dwell into the reasons as to why no award has been made. As discussed aforesaid, if there is an order of restraint on the Collector or on the acquiring authority and as a result of which, the Collector or the Land Acquisition Officer is not in a position to make an award for reasons beyond his control and in compliance of the interim order granted by a court of law at the instance of the landowner or any other person who may have questioned the acquisition, the period during which the interim order has operated has to be reckoned and if on the date of enforcement of the 2013 Act i.e. 1-1-2014, no award has been made owing to the operation of such an interim order granted by a court in favour of the landowner, then the provisions of the 2013 Act cannot straightaway be made applicable in the determination of the compensation. This is because, but for the operation of the interim order, the award could have been made under the provisions of the 1894 Act*



*until 31-12-2013 and then provisions of the 1894 Act would have applied as per clause (b) of sub-section (1) of Section 24. But on the other hand, owing to the operation of the interim order granted by a court in favour of landowner, the award would not have been made as on 1-1-2014 when the 2013 Act was enforced.*

*28. In our view, in such a situation the acquiring authority cannot be burdened with the determination of compensation under the provisions of the 2013 Act. In other words, the landowner cannot, on the one hand, assail the acquisition and seek interim orders restraining the authorities from proceeding further in the acquisition, and on the other hand, contend that since no award has been made under Section 11 of the 1894 Act on 1-1-2014, the provisions of the 2013 Act should be made applicable in determining the compensation.”*

44. Likewise, the contention/apprehension of the petitioner that the award was antedated is purely conjectural in nature. It is noticed that in one of the notings dated 01.01.2014 that has been placed on record by the respondents, it has been stated “*prepare notice under Section 12(2) of the Land Acquisition Act.*” The occasion to issue a notice under Section 12(2) would necessarily arise only after the award has been made.

45. In the facts of the present case, there is nothing on the basis of which it can be concluded that the award has been antedated, as alleged.

46. It is also notable that in ***Delhi Airtech Services Pvt. Ltd and another v. State of U.P. and another*** 2022 SCC OnLine SC 1408, it has been held that in a situation where Section 17(1) is invoked and, even if the pre-requisite conditions/requirements for the same are not complied, the non-issuance of the award within the specified time period as contemplated under Section 11(A) will have no bearing on the validity of the acquisition, “*if the land loser does not challenge the acquisition and/or taking of possession as illegal but concedes to the position*”. In such a situation, the



vesting is absolute and cannot be considered to have lapsed until the land loser exercises his right. It has been observed in the said judgment as under:-

*“16. But it is a different matter altogether, when Section 17(1) is invoked but the requirement thereunder which is a pre-requisite condition is not complied. As noted, sub-section (3A) has been inserted w.e.f. 24.09.1984, whereunder it is made mandatory to tender and pay 80% of the estimated compensation before taking possession. Therefore, even if possession is taken, such possession cannot be considered as legal so as to vest the land absolutely if the pre-requisite condition for payment of 80% before taking possession is not complied. In such circumstance, by legal fiction it loses its character as an acquisition under Section 17 and since the absolute vesting does not take place, it will lapse if the further process is not complied and the award is not passed within two years from the date of declaration. **However, even when the pre-condition is not complied, if the land loser does not challenge the acquisition and/or taking of possession as illegal, but concedes to the position, the possession taken does not become per-se illegal and the vesting will be absolute and in such event it cannot be considered to have lapsed until the land loser exercises the right.** We consider it so, since, both Section 11A and sub-section (3A) to Section 17 of Act, 1894 were inserted in Act, 1894 to enable the land losers to exercise their right conferred on them. As such, the said right is to be exercised by the land loser and none other, not even the acquiring authority or beneficiary nor would the said provision become automatically applicable unless it is triggered by the land loser.*

*17. Therefore, we are of the considered view that Section 11A though applicable to the cases of acquisition initiated under Section 17(1) of Act, 1894 the consequence of it will not affect the case where the land has absolutely vested on compliance of sub-section (3A) to Section 17 of Act, 1894 and 80% of estimated compensation is tendered and paid. Hence, when there is a challenge by the land loser, each case will have to be considered on its own merits to determine whether the pre-requisite condition to tender and pay as contemplated under sub-section (3A) is made before possession is taken. If in the case concerned the mandatory prerequisite is not complied, such acquisition will lose its character as being under Section 17 and if the award is not passed within two years from the date of the declaration, it will lapse and not otherwise. The benefit of said provision is available only to be invoked by the land loser and cannot be invoked by the acquiring authority to claim lapse by pointing to non-compliance since the ‘vice’ of non-compliance cannot be permitted to be converted into a ‘virtue’.”*



2024:DHC:9981



47. In the present case, it has been noted hereinabove that the petitioner itself has categorically stated in the amended writ petition that it is neither challenging the *vires* of any notification under the repealed act nor assailing the acquisition proceedings. Further, possession has been handed over by the petitioner to the respondent no.3 (DMRC) pursuant to a settlement. In the circumstances, even assuming that the award was no issued within the period prescribed under Section 11(A), the same would not constitute a fatal irregularity under the LA Act, 1894.

48. For all the above reasons, there is no merit in these petitions, the same are accordingly, dismissed. All pending applications also stand disposed of.

**SACHIN DATTA, J**

**VIBHU BAKHRU, ACJ**

**DECEMBER 24, 2024**

*sv, uk*