



IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

WRIT PETITION No. 31107 of 2023

PUSHPABAI KOTHARI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WITH

WRIT PETITION No. 1104 of 2024

GHANSHYAMDAS KOTHARI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Vijay Assudani – Advocate for the petitioners.

Ms. Mini Ravindran – Advocate for the respondent / IDA

Shri Shrey Raj Saxena- Dy. AG for the State.

Reserved on : 19/09/2026

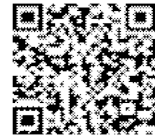
Delivered on : 24/09/2026

ORDER

1/ This order will govern the disposal of **W.P. Nos. 31107 of 2023 and 1104 of 2024** as it is jointly submitted by counsel for the parties that both the writ petitions involve the same issue on the identical facts situation. For the sake of convenience, the facts are noted from **W.P. no. 31107 of 2023**

2/ Present petition i.e. **W.P. no. 31107 of 2023** has been filed under Article 226 of the Constitution of India seeking following reliefs :

i) Issue a writ in the nature of CERTIORARI to quash and set



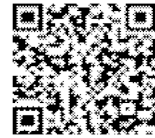
aside the land acquisition proceedings initiated by the Respondents under the Act, 1894 in respect of Petitioner's land situated at Village Kumerdi, Tehsil Sanwer, District Indore, Madhya Pradesh (as more particularly described in Paragraph 5(1) above), and grant liberty to petitioner to use their said land as per their sweetwill.

ii) Alternatively, pass an appropriate order or writ in the nature of MANDAMUS directing the respondents Nos. 1 to 4 to pass fresh award/compensation towards acquisition of petitioner's lands in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and;

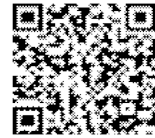
iii) Pass any other writ or further orders as deemed fit to this Hon'ble Court in the facts and circumstances of the case may kindly be passed in favor of the Petitioner.

iv) Allow this Writ Petition with costs:

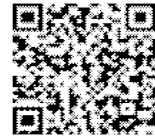
3/ The facts of the case in brief are that the petitioner is the owner, occupier, and possession holder of agricultural lands measuring 6.067 hectare comprised in survey No. 36 of Village Kumerdi, Tehsil Sanwer, District Indore, Madhya Pradesh. On 21.05.1997, the Respondent No. 4-IDA passed a resolution No. 78 declaring its intention under Section 50 (1) of the Madhya Pradesh Town and Country Planning Act, 1973 (1973 Act) to prepare a Town Development Scheme No. 139 under the 1973 Act. On 07.05.1999, the IDA published the Draft Scheme, in which the Subject Land was included. On 03.10.2002 and 11.10.2002, on request of IDA Collector issued notification u/s 4 r/w section 17 of Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894") and dispensed with inquiry as contemplated under Section 5-A of the Act, 1894. On 29.10.2002, the declaration under Section 6 of the Act 1894 was published in the official Gazette and Newspaper whereby acquisition of 93.561 hectares of land was directed to be made for Scheme No. 139. On 23.11.2002, the Land Acquisition Officer issued letter to IDA for



issuance of notice under Section 9 of the Act, 1894 to landowners. On 26.11.2002, the Land Acquisition officer summarily rejected the petitioner's objection against the land acquisitions on the ground of urgency under section 17 of the Act, 1894. and petitioner's right to file objections under section 5A of the Act, 1894 was taken away. On 23.11.2004, the Award was passed under Section 11 of the Land Acquisition Act, 1894 without providing an opportunity of hearing under section 5A. On 21.06.2004, the petitioner challenged the purported acquisition of the Subject Land for Scheme No.139 by filing W.P. No.1971/2002), which was dismissed. On 10.10.2005, the petitioner challenged the order dated 21.06.2004 before the Hon'ble Supreme Court wherein status quo was granted in favor of the petitioner. On 10.10.2005, the respondent No. 4/ IDA, claims to have taken a possession of the land of the present petitioner through a 'Mauka Panchnama evam Kabja Rasid. However, this is disputed by the petitioner, as the witnesses who signed the Panchnama are residents of Village Bhaurasala, located at a significant distance from the petitioner's land in Village Kumerdi. Moreover, the panchnama was not signed by the petitioner or other concerned landowners, further raising questions regarding its authenticity. On 10.10.2005, the petitioner made an application to Land Acquisition Officer/Collector giving intimation of the order of a status quo of Hon'ble Apex Court. On 11.10.2005, the Collector sent a letter to Tehsildar for complying with the order of Status quo of Hon'ble Apex Court. On 14.08.2006, the Hon'ble Supreme Court dismissed the SLP (C) No. 21580-82 of 2005 since after enactment of the Madhya Pradesh Utica Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, the remedy of an *intra-court appeal* became available. The petitioners were granted liberty to approach the High Court under a

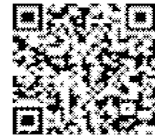


Writ Appeal and interim protection was continued for a period of two months. In the year 2006, the petitioner challenged the order dated 21.06.2004 by way of filing Writ Appeal No. 321/2006 before the Division Bench of this Hon'ble Court. On 26.04.2010, the Hon'ble High Court partly allowed the Writ Appeal and passed an order granting the liberty to petitioner to raise objection under Sec. 5A and 48 of the Act 1894. On 25.06.2010, the petitioner challenged the order dated 26.04.2010 before the Hon'ble Supreme Court in SLP (c) No. 019052/2010. On 26.08.2010, Mr. Ramprasad, a witness to the alleged Mauka Panchnama filed an affidavit on 26.08.2010 before the Hon'ble Supreme Court in connected SLP (C) No. 18671-72 of 2008. In his affidavit, he clarified that he was asked by Indore Development Authority officers to sign as a witness for the land in Bhorasala, not for the petitioner's land in Kumerdi. He further stated that he did not visit Kumerdi on 10.10.2005 and was unaware of any possession being taken that day. Since he cannot read or write, he signed where instructed. On 10.02.2016, during the pendency of appeals before the Hon'ble Supreme Court, the Land Acquisition Act, 1894 was repealed and replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, which came into effect on January 1, 2014. The Supreme Court, in its order dated 10.02.2016, disposed of the matter by extending the time for the petitioner to approach the appropriate authority under Sections 5A and 48 of the old Act. Additionally, the Court granted the petitioner liberty to approach the Hon'ble High Court regarding the applicability of Section 24(2) of the new 2013 Act. During the pendency of litigation, Respondent No. 4 (IDA) completed the entire Scheme No. 139, by issuing multiple tenders for the development of the scheme, and these tenders were allotted to the



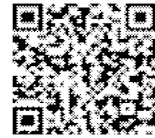
successful bidders. On 04.03.2016, the petitioner filed objections under Sec. 5A read with Sec. 48 of the Act of 1894 before Respondent Nos. 1 and 3. On 25.10.2017, in terms of liberty granted by Hon'ble Supreme Court the petitioner filed WP 2191 of 2016, which was dismissed as withdrawn, wherein the petitioner was granted liberty to file fresh petition in case an adverse order is passed by the concerned authority under Section 5-A of the Act, 1894 and respondents were directed to decide the objections filed by the petitioner within a period of 3 months and the statues quo order was extended for a period of 15 days post decision on said objections. Hence, present petitions have been preferred before this Court.

4/ Learned counsel for the petitioner has submitted that the petitioner is still in possession of the land in question and are doing farming on the said land, The petitioner has been deprived of her right to use her own property guaranteed under Article 300-A of the Constitution of India since possession of the land in issue has not been taken till date, compensation in respect of the land in issue has never been paid, the objections filed by the petitioner has not been decided by respondent No. 1 and 2. In this regard, learned counsel has referred to the judgment delivered by Hon'ble Supreme Court in the case of ***Indore Development Authority vs. Manoharlal and Ors. (2020) 8 SCC 129*** in para 366 has held that land acquisition proceeding will lapse, if possession has not been taken and neither compensation is paid. He has also placed reliance on judgement of this Hon'ble Court in case of ***Rajesh Kumar Tiwari Vs State of M.P & Ors, W.P.No. 11203/2015 decided on 08/01/2025.*** Learned has further submitted that He has further submitted that Mr. Ramprasad, a witness to the alleged Mauka Panchnama filed an affidavit and clarified that he was asked by Indore Development Authority officers

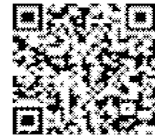


to sign as a witness for the land in Bhorasala, not for the petitioner's land in Kumerdi and also stated that he did not visit Kumerdi on 10.10.2005 and was unaware of any possession being taken that day. Since he cannot read or write, he signed where instructed. In this regard, learned counsel has referred to the order passed in the case of ***Gaurav Agroplast Ltd. Vs State of M.P.***, [W.P. No. 603/2000 decided on 6/9/2000] wherein our high court has held that if a possession panchnama is not signed by person in possession, then said panchnama is empty/paper formality.

5/ Learned counsel further submitted that after issuance of notice by the Indore Municipality to the petitioner / Landowner being the Bhumiswami and possession holder regarding construction of a Master Plan road upon a part of the Petitioner's land, the petitioner also filed Writ Petition No. 29736 of 2025 before this Hon'ble Court seeking directions towards compensation in terms of FAR/TDR, which was disposed of on 31/07/2025 directing respondents to consider case of petitioner for grant of double FAR.. Further admittedly no compensation has been paid to petitioner and the stand of the Respondent is that they have paid the amount to the Collector. Such deposit has not been accepted as “paid” within the meaning of Section 31 of the old Land Acquisition Act. The deposit with the Collector is with the self-same authority. The judgment delivered in the case of ***Indore Development Authority (supra)*** does not accept this as paid in terms of Section 31 of the Act. Learned counsel has further submitted that the proceedings under section 6, 9 and 11-A of the Act, 1894 stand nullified so for us the Petitioner-Landowner are concerned. This is a direct consequence of the order dated 26.04.2010 passed by Division Bench of the High Court on the earlier occasion. On that occasion, Division Bench had struck down invoking of urgency under section 17(4) and allowed liberty to the Petitioners to file

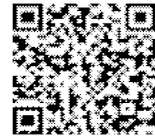


objections under section 5A and 48 of the Act. With that, all the proceedings beyond the stage of 5A, automatically stood nullified. Therefore, there is, in law, no Award qua the petitioner-landowner. Learned counsel has also submitted that the objections filed by the Petitioner -Landowner under section 5-A r/w 48 of the Act, 1894 are still pending before the competent authority even after lapse of around 9 years.. It is only after adjudication under section 5A, the competent authority can proceed further for proceedings under section 6,9 and 11A of the Act, 1894, Thus, the contention of the respondents that the compensation for the present petitioners has already been deposited is thus baseless. The final award for the petitioners is yet to be ascertained and adjudicated in the eyes of the Law. Learned counsel has further submitted that the State Government in its notification under section 4 dated 03.10.2002 had notified that the said Land is required or is likely to be required for the public purpose set out in column (6) of the Schedule, notice to that effect was thereby given to all the concerned persons in accordance with the provisions of the sub-section (1) of section 4 of the LA Act, 1894. It was further directed that the provisions of section 5A of the said Act shall not apply in relation to the said Land as the provisions of section 17 of the said Act have been made applicable. Learned counsel has further submitted that the Government has gone on record to say that the public purpose has now been changed and public purpose is now changed as mentioned in the Master Plan Indore -2021. There could not have been in law a change in the public purpose subsequent to issuance of Section 4 Notification. If a change in public purpose is permitted to the Government after issuance of Section 4, then the filing of 5-A becomes redundant. Objections under section 5-A are filed keeping in mind the public purpose specified in Section 4 notification. In support of his



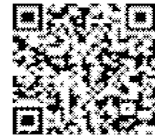
contentions, he has placed reliance upon the judgment delivered in the case of *Narpat Singh vs. Jaipur Development Authority (2002) 4 SCC 666* and *Lal Bahadur vs State of UP (2018) 15 SCC 407*.

6/ Learned counsel for the petitioner has further submitted that the purpose of the Scheme No.139 was initially proposed for construction of MR-10 road, flyover and Industrial Plots, but, after implementation of Master Plan Indore -2021, during the pendency of litigation, the purpose of Scheme No. 139 was not possible to be implemented as the land use of the whole area was modified as per the 'Super Corridor'. He has also submitted that the petitioner has already surrendered area measuring 4.111 hectares upon which the MR-10 Road and Flyover has been constructed long back. The MR-10 stands developed and completed further the purposes of industrial plots can never be developed by IDA and hence the lands of the petitioner is no longer required for the purposes of Scheme No. 139. The purpose of land acquisition as originally proposed under section 4 of Act, 1894 stands changed and vitiated upon implementation of Master Plan Indore-2008. The proceedings of land acquisition have lapsed on this count also. Learned counsel has further submitted that The respondents' act of acquiring the lands of the petitioner even after completion of the Scheme No. 139 is sheer arbitrariness. The said land acquisition would also affect the petitioner's fundamental rights including Article 19(1)(g) and Article 21 of the Constitution of India. The compensation has not yet been awarded to the petitioner and not been received by them till date or deposited as required by law as objections under section 5-A of Act, 1894 are yet to be decided. Further, it is submitted that as the possession of the land has not been taken, therefore, the said land acquisition proceedings are required to be withdrawn. The respondents have failed to consider the fact that till

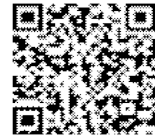


date, the name of the petitioner is recorded as Bhumiswami in the revenue records of the concerned lands. This further affirms the fact that the petitioner is in regular and peaceful possession of the land and their ownership is intact. The petitioner is still in possession of the land in question and has been regularly paying electricity bills, land revenue and other expenses and taxes in respect of the said land since the past 30 years. With effect from 1st January 2014, the Act 1894 was repealed and replaced by the Act, 2013. Accordingly, the provisions of Section 24 of the Act, 2013 are applicable to the present case. Further; the petitioner is still in possession of land, hence the proceedings under the Land Acquisition Act, 1894 have lapsed or in the alternative, the compensation payable to the petitioner must be determined in accordance with the provisions of Act, 2013. Under these circumstances, present petition deserves to be allowed.

7/ In reply to the aforesaid submissions made by counsel for the petitioner/s, learned counsel for the respondent no. 4 / IDA has submitted that the objections of the land owners were dealt with individually and since no substance was found in the said objections, the IDA proceeded ahead and the final publication of the scheme was undertaken as per section 50(7) and published in the news paper dated 02.03.2002 followed by Gazette Publication dated 15.03.2002. Thereafter the NOC was given by the Town & Country Planning Department in respect of the land sought to be acquired for implementing the scheme by letter dated 25.09.2002. As the urgency clause U/s. 17 of Land Acquisition Act, 1894 was invoked, therefore the inquiry as contemplated U/s. (5)(a) of the Land Acquisition Act was dispensed with and thereafter the notification U/s. (6) of the Act was published in the gazette on 07.11.2002 and also in the news paper on 12.11.2002 and 01.11.2002. Learned counsel has further



submitted that as is evident from letter dated 18.10.2002, a sum of Rs. 1,40,00,000/- was deposited by the respondent / IDA to be paid to the land owner. Thereafter the possession of the land was obtained and the construction of the bridge and the road (MR- 10) was completed in public interest and it is admitted position that the said road is being used by the public since the Singheshtha 2004. It is further submitted that after the dismissal of the writ petition no. 1971/2002,, the exparte possession was taken on 05.06.2003 & 10.10.2005. It is also submitted that the land acquisition proceeding was undertaken, in which, the petitioner participated and in the said land acquisition proceedings, the award was passed on 23.11.2004. It is submitted that the petitioner has not challenged the jurisdiction of the land acquisition officer to pass the award. It is further submitted that now the question of quantum compensation is only being agitated which can be considered and decided by the appropriate forum. After passing of the award, the respondent / IDA has already deposited the amount of compensation which has been awarded to the particular land owner, this can be ascertained from the documents dated 29.11.2008. It is further submitted that the Writ Petitions filed by the petitioner and other land owners were rejected by the single bench of this Hon'ble Court vide order dated 21.06.2004 and came to a finding that the road and the bridge after its construction was being used by the public at large and this was a public purpose, therefore in these circumstances the Hon'ble Court dismissed the petition thereby upholding the entire land acquisition proceedings and the validity of the notification U/s. 4 & 6 of the Land Acquisition Act and even found that the invocation of urgency clause U/s. 17 was also justified looking to the public purpose of construction of road, carving out of plots for industrial purpose and development of road for construction

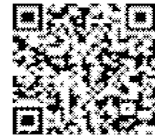


of farm houses, which falls within the specific purpose of public purpose specified in section 49 of the Adhiniyam R/w Rule 17(13) of the Rules. The Hon'ble Court categorically held that the need for urgency is genuine for one of the most coveted and celebrated festival Sinhastha was organized in the month of April & May 2004 , therefore it was necessary to have adequate connectivity from Indore to Ujjain.

8/ Learned counsel has further submitted that the petitioner has initially nowhere complained that the the possession was not taken. on the contrary the affidavit filed by the said witness Ramprasad S/o Ratan Singh is after 5 years i.e. on 26 August 2010. There is no pleading to this effect in the earlier litigation. Even otherwise also, the order dated 10.10.2005 passed in SLP also shows that the Hon'ble Supreme Court had stated as under :-

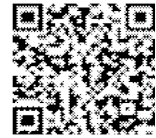
“Status quo as obtaining at 2.45 PM today in respect of the said land shall be maintained until further order.”

9/ Meaning thereby the possession was taken on 10.10.2005 even before the passing of the order by the Hon'ble Supreme Court, thus it is quite clear that the answering respondent are undisputedly having possession of the land in question. Therefore, petitioner's contention regarding status-quo is also of no consequence in view of the fact that the said proceeding are all *post facto* proceedings. Furthermore, the petitioner's physical possession is nothing but is a possession of an encroacher in the eyes of law. The contention of the petitioner that on 10.10.2005 from 10 AM till 3.30 PM no officer has come to take possession on the spot is vehemently denied. It is clear from own application of petitioner dated 10.10.2005 wherein the status quo order dated 10.10.2005 (fax 3.51 PM) was intimated to the authorities, this application was received by the Land Acquisition Officer at 5.25 PM,



however before this time the possession was already taken. It is submitted that petitioner has not submitted any document to support this pleading at the relevant point of time. It is further submitted that the affidavit filed by the witness of the proceeding is also after 5 years , hence it cannot be treated as credible piece of evidence so as to substantiate the pleading of the petitioner. On the contrary, the pleading of the petitioner are nothing, but an afterthought so as to create a camouflage that the possession of the land of question was never taken from the petitioner. It deserves consideration of this Hon'ble Court that the factum of possession being with the petitioner is not at all admitted and even Hon'ble Court also did not entertain this plea of the petitioner because he had it been so, then there was no occasion for the Division Bench of this Hon'ble Court to observe in paragraph no. 13 that only those persons' application U/s. 5-A shall be entertained if the possession of the land was not taken. It is further submitted that It is submitted that petitioner's contention that the subject of acquisition is changed after the implementation of introduction of Master Plan 2021 is vehemently denied because the introduction of master plan has no bearing on the acquisition of land which was already undertaken and was completed after passing of the award in the year 2004 and taking of possession in the year 2003 & 2005, whereas the master plan 2021 came into force w.e.f. 01.01.2008.

10/ It is further submitted that Hon'ble Court in the earlier round of litigation had categorically held that the aforesaid purpose of acquisition was indeed a public purpose and therefore upheld section 4 & section 6 notification, thereafter in the writ appzal, the division bench did not quash the notification on the contrary taking into consiceration the judgment passed in tae case of Radheshyam partly allowed the appeal by holding that since the declaration U/s. 6 of the Act can be issued from



time to time. Therefore the respondents can consider the case of the petitioner for exclusion of their land U/s. 48 that too only such case where possession is not taken, therefore it can safely be said that the finding of the single judge in respect of the validity of section 4 & 6 with respect to the public purpose of acquisition were not disturbed even in the writ appeal, therefore the contentions of the petitioner do not deserve any interference by this Hon'ble Court.. It is further submitted that the possession of the lands of various land owners whose land was part of the scheme no. 139 was taken on 10.10.2005, therefore the said proceedings by no stretch of imagination be said to be a sham proceedings. It is further submitted that the construction of the road is not the only public purpose of the scheme but the other public purpose of the scheme, for which various other development activity is to be undertaken but due to the pendency of the litigation there is hardship in full implementation of the scheme. It is further submitted that the notice of passing of award was also served on the petitioners, therefore the question of the provisions of section 24(1)(a) of the Act, 2013 becoming applicable do not arise. It is further submitted that the petitioner has filed application U/s. 5-A & section 48 of Land Acquisition Act before the Collector, Indore. It is submitted that the import of the provisions of section 5-A & section 48 are entirely on different realm. It is submitted that section 48 deals with the liberty of the state government to withdraw from acquisition of any land of which possession has not been taken i.e. to say if at all any application is to be filed seeking withdrawal of the land from the land acquisition proceedings, then the petitioner is required to file such proceeding before the state government and not before the Collector. It is further submitted that the award has already been passed and the amount of compensation has already been deposited, therefore the question of the



provisions of section 24 of the Act becoming applicable to the present facts & circumstances of the case do not arise. It is submitted that the proceedings U/s. 5-A at present are pending before the land acquisition officer and the same is to be decided by the land acquisition officer in accordance with law & also as per the directions of the Hon'ble Supreme Court & also this Hon'ble Court, therefore at this juncture, no case is made out against the answering respondent, therefore the petition being devoid of merits, deserves to be dismissed with costs.

11/ Learned counsel for the respondent nos. 1 to 3 / State, by filing I.A no. 7389 of 2025, adoption of reply filed by the respondent / IDA, has has relied / adopted the pleadings and submissions made by the respondent No.4 (IDA) in his return and submitted that it may kindly be treated as part and parcel of the reply of the respondent nos.1 to 3 also. The respondents no.1 to 3 deny all the adverse allegations, pleadings and submission of the petitioner in toto leveled against the answering respondents, if any.

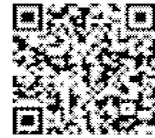
12/ I have considered the submissions made by both the parties and perused the record, as also the judgments cited by both the parties.

13/ Considering the submissions made at the bar and the subject matter of the petition, which pertains to essentially regarding lapses of the acquisition proceeding under the provisions of the Land Acquisition Act, 1894, from the submissions made by learned counsel for the petitioner and the respondents, it would be fruitful to refer to the chronology and events, which is mentioned by the petitioner and which reads as under :

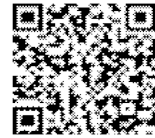
DATE	EVENTS
21/05/97	The Respondent No.4-IDA passed a resolution No. 78 declaring its intention under Section 50 (1) of the Madhya Pradesh Town and Country Planning Act. 1973 (1973 Act') to prepare a Town Development Scheme No. 139 under the 1973 Act.
07/05/99	The IDA published the Draft Scheme in the Daily newspaper



	inviting objections and suggestions under section 50(3) of the 1973 Act. The Subject Land was included in the Draft Scheme.
03.10.2002 & 11.10.2002	On Request of IDA Collector issued notification u/s 4 r/w section 17 of Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894") and dispensed with inquiry as contemplated under Section 5-A of the Act, 1894
29/10/02	The declaration under Section 6 of the Land Acquisition Act 1894 (1894 Act') was published in the official Gazette and Newspaper whereby acquisition of 93.561 hectares of land was directed to be made for Scheme No. 139.
23/11/02	The Land Acquisition Officer issued letter to IDA for A issuance of notice under Section 9 of the 1894 Act to landowners
26/11/02	Land Acquisition officer summarily rejected the petitioner's objection against the land acquisitions on the ground of urgency under section 17 of the Act. 1894. and petitioners right to file objections under section 5A of the Act, 1894 was taken away.
23/11/04	Award was passed under Section 11 of the Land Acquisition Act, 1894 on 23.11.2004 without P providing an opportunity of hearing under section 5A. It is pertinent to mention here that no compensation has been paid to the Petitioner till date in respect of the land in issue and petitioner is still in possession of said lands.
21/06/04	The Petitioner challenged the purported acquisition of the Subject Land for Scheme No.139 by filing a writ petition before the M.P. High Court Bench at Indore (W.P. No.1971/2002), which was dismissed.
10/10/05	Petitioner challenged the order dated 21.06.2004. (Annexure P/10) before the Hon'ble Supreme Court. The Hon'ble Supreme Court in SLP (C) No. 21580-82 of 2005 granted status quo in favor of the petitioner.
10/10/05	To Defeat the said order of Hon'ble Supreme Court of A India Respondent No. 4, IDA, claims to have taken a possession of the land of the present petitioner through a 'Mauka Panchnama evam Kabja Rasid. However, this is disputed by the petitioner, as the witnesses who signed the Panchnama are residents of Village Bhaurasala, located at a significant distance from the petitioner's land in Village Kumerdi. Moreover, the panchnama was not signed by the petitioner or other concerned landowners further raising questions regarding its authenticity.
10/10/05	Petitioner made an application to Land Acquisition Officer Collector giving intimation of the order of status quo of Hon'ble Apex Court. It is pertinent to mention here that had the possession been taken then there was no necessity to serve this communication.
11/10/05	Collector sent a letter to Tehsildar for complying with the order of status-quo of Hon'ble Apex Court.
14/08/06	The game Court dutened the SEP (C) No 21580-82 of 2005



	enactment of the Madhya Pradesh Uica Nyayalaya (Kanda Ko Appeal Albaniyan, 2005, de remedy of an inte coxat append become available. The petitioners word gramed Liberty to appeach the High Court onder a Wirit Appeal and interim protection was continand fe a period of two mode
2006	The petitioner challenged the order dated 21.06.2004 Annexure-P/10 by way of filing Writ Appeal No 321/2006 before the Division Bench of this Hon'ble Court
09/09/09	The respondent issued a notice to the petitioner's son, stating that illegal mining activities were being carried out on the land adjacent to the petitioner's land. This notice serves as sufficient evidence that the petitionen is in possession of the land, thereby undermining the IDA's claim of possessing the land, which is basis
26/04/10	High Court of MP, Bench at Indore partly allowed the Writ Appeal No. 321/2006 and passed an onder granting the liberty to petitioners to raise objection ander Sec. 5A and 48 of the Land Acquisition Act 1894
25/06/10	Petitioner Challenged the order dated 26.04.2010 Annexure P/15 before the Hon'ble Supreme Court in SLP (c) No. 019052/2010. Respondents also filed their detailed replies.
26/08/10	Mr. Ramprasad, a witness to the alleged Mauka Panchnama Annexure-P/11 claimed by Respondent No. 4, filed an affidavit on 26.08.2010 before the Hon'ble Supreme Court in connected SLP (C) No. 18671-72 of 2008. In his affidavit, he stated that he runs a shop in Village Bhorasala, approximately 2 km from Village Kumerdi. He clarified that he was asked by Indore Development Authority officers to sign as a witness for the land in Bhorasala, not for the petitioner's land in Kumerdi. He further stated that he did not visit Kumerdi on 10.10.2005 and was unaware of any possession being taken that day. Since he cannot read or write, he signed where instructed. This affidavit was submitted by the petitioner along with their rejoinder before the Hon'ble Supreme Court
10/02/16	During the pendency of appeals before the Hon'ble Supreme Court, the Land Acquisition Act, 1894 was repealed and replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, which came into effect on January 1, 2014. The Supreme Court, in its order dated 10.02.2016, disposed of the matter by extending the time for the petitioner to approach the appropriate authority under Sections 5A and 48 of the old Act. Additionally, the Court granted the petitioner liberty to approach the Hon'ble High Court regarding the applicability of Section 24(2) of the new 2013 Act.
	During the pendency of litigation, Respondent No. 4. the Indore Development Authority (IDA), completed the entire Scheme No. 139, by issuing multiple tenders for the development of the scheme, and these tenders were allotted to the successful bidders.



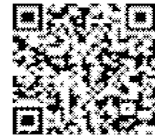
04/03/16	Petitioner filed objections under Sec. 5A read with Sec. 48 of the Act of 1894 before Respondent N01 and 3
25/10/17	In terms of liberty granted by Hon'ble Supreme Court Petitioner filed a WP 2191 of 2016, which was dismissed as withdrawn, wherein the petitioner was granted liberty to file fresh petition in case an adverse order is passed by the concerned authority under Section 5-A of the Act, 1894 and respondents were directed to decide the objections filed by the petitioner within a period of 3 months and the status quo order was extended for a period of 15 days post decision on said objections
	Petitioner is still in possession of the land in question and are doing farming on the said land, petitioner have been regularly paying electricity bills, land revenue and other expenses and taxes in respect of the said land.
15/12/23	Present writ petition is filed

14/ Considering this, now, it is fruitful to refer to the contentions raised by the petitioner as well as the respondents in nutshell.

15/ The petitioner has raised first contention regarding the effect of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 [in short “ the Act, 2013] and has submitted that the land acquisition proceeding will lapse, if the possession has not been taken and the compensation has not been paid. In this regard, he has referred to the judgment delivered in the case of *Indore Development Authority vs. Manoharlal and Ors.* (supra) , of which paragraph no. 366 is relevant, which is reproduced as under for the sake of reference :

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

1. Under the provisions of [Section 24\(1\)\(a\)](#) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.
2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under [Section 24\(1\)\(b\)](#) of the Act of 2013 under the Act of 1894 as if it has not been repealed.
3. The word ‘or’ used in [Section 24\(2\)](#) between possession and compensation has to be read as ‘nor’ or as ‘and’. The deemed lapse of land



acquisition proceedings under [Section 24\(2\)](#) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

4. The expression 'paid' in the main part of [Section 24\(2\)](#) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to [Section 24\(2\)](#) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under [Section 4](#) of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under [Section 31](#) of the Land Acquisition Act of 1894 has not been fulfilled, interest under [Section 34](#) of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under [Section 4](#) of the Act of 1894.

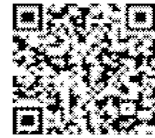
5. In case a person has been tendered the compensation as provided under [Section 31\(1\)](#) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under [Section 24\(2\)](#) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under [Section 31\(1\)](#). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under [Section 24\(2\)](#) of the Act of 2013.

6. The proviso to [Section 24\(2\)](#) of the Act of 2013 is to be treated as part of [Section 24\(2\)](#) not part of [Section 24\(1\)\(b\)](#).

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

8. The provisions of [Section 24\(2\)](#) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. [Section 24\(2\)](#) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. [Section 24](#) applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen

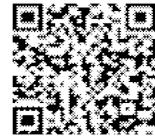


proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

16/ Considering the same, in absence of any material to indicate that neither any notice is issued to the petitioner before taking possession, nor any independent witness has signed any Panchanama, which is relied on by the respondent as the witness of the Panchanama has disputed the content of the Panchanama by way of filing affidavit before the Hon'ble Supreme Court and therefore, whether such Panchanama prepared by the respondent / Authority can be considered as an undisputed piece of evidence ?. ***The answer is certainly “No”.*** It also transpires from the record that no compensation has been paid to the petitioner by the respondent / Authority or by the Reference Court, as it is mandatory required by the Law. It also transpires that the petitioner is enjoying possession of the land in question and her crop is also standing on the land in question, as it is contended by the petitioner and the photographs showing that possession is also annexed with the petition. Counsel for the petitioner has also relied upon the observations made by the Co-ordinate Bench of this Court in the order passed in the case of ***Rajesh Kumar Tiwari Vs State of M.P & Ors, W.P.No. 11203/2015 decided on 08/01/2025***, of which relevant paragraphs are reproduced as under for the sake of reference :

8. After hearing learned counsel for the parties and going through the record, this Court asked learned Collector to point out as to on which date notices were issued and served on the petitioner, then it is fairly admitted by her that only notice which was issued to the petitioner after passing of the award is enclosed as Annexure AR-1 dated 12.08.1993 and admittedly that was never served on the petitioner as is evident from the report read over by Shri Ruprah on the overleaf of the notice Annexure AR-1. Therefore, it is admitted fact that notice issued by the respondent/Land Acquisition Officer asking the petitioner to accept or to take compensation was never served on the petitioner.

9. Yesterday this Court categorically asked the Collector whether any cheque was prepared in favour of the petitioner and then it was sent for service on the petitioner and whether the petitioner had refused to accept



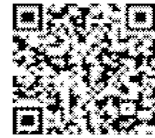
the said cheque, in response, today Shri Ruprah, learned Additional Advocate General fairly admits that no such cheque or bank draft was prepared in favour of the petitioner. It was also asked whether any notice was issued after dismissal of MP No.2559/1993 in the year 2002. In response to that in paragraph 2 of the affidavit filed today, the Collector Smt. Pratibha Pal fairly accepted that no notice was issued to the petitioner in regard to payment of compensation after dismissal of miscellaneous petition in the year 2002 filed by the petitioner but has said that "but it is suffice to state here that notice dated 12.08.1993 was duly issued to the petitioner after passing of the award of the compensation in the year 1993. Copy of the notice dated 12.08.1993 annexed as Annexure AR/1." However, issuance of this notice in a mechanical manner and without serving it to the beneficiary will have no positive impact for the State.

11. When these averments are taken into consideration then Sub-section (2) of Section 12 of the Land Acquisition Act, 1894 provides that "The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made." It is evident that since notice Annexure AR-1 was issued as mentioned by learned Collector in her affidavit then that means admittedly the petitioner or his representative was not present when the award was passed. Purpose of issuance of notice is not to fulfil hollow formalities but to make the person concerned aware that award is passed and then subsequent event is to disburse the compensation. Non-service of notice and then taking no steps to disburse the compensation in favour of the petitioner, will attract the provisions contained in Section 24 (2) of the Act of 2013 especially when in MP No.2559/1993 neither the award was stayed nor the State authorities were restrained from executing the award in relation to payment of monetary compensation.

12. Sub-section (2) of Section 24 of the Act of 2013 reads as follows: "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

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."

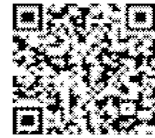
13. When this provision is taken into consideration, then admittedly compensation has not been paid to the petitioner till date. This fact is admitted, both by the learned Additional Advocate General and the



Collector, Rewa who is appearing in person. Thus, even if there is a dispute with regard to possession whether it was taken over not, though that is a contentious issue, in view of the notice Annexure P-7, dated 07.05.2015, issued by the Executive Engineer, MP Housing Board and Infrastructure Development Board, Division Rewa, yet the word used in Sub-section (2) of Section 24 is "OR" thus, it is clear that if the possession is not taken or compensation is not paid, thus in any of the conditions, the proceedings will be deemed to have lapsed.

14. Therefore, I have no hesitation to hold that as far as land contained in Survey Number 493 belonging to the petitioner is concerned, since compensation has not been paid, proceedings stand lapsed qua the petitioner. It will be open to the State, if so required, either to initiate fresh acquisition proceedings in terms of the provisions contained in the Act of 2013 or to allow the petitioner to enjoy his possession. Accordingly, till fresh proceedings are undertaken, notice contained in Annexure P-7 is hereby quashed.

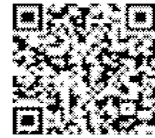
17/ From the above mentioned judgment, it clearly transpires that the Co-ordinate Bench has also taken the view that when admittedly the compensation has not been paid to the petitioner till date and there is dispute regarding possession, whether it was taken or not ?, though the same is contentious issue in view of the material available on record and more particularly, considering the affidavit filed by the witness of said panchanama, by which the respondent / Authority is claiming the possession. The affidavit is also filed before the Hon'ble Supreme Court, whereby the witness has specifically stated that he has not signed any Panchanama, therefore, the said Panchanama prima-facie cannot be relied upon for consideration that the possession is taken and therefore, the Co-ordinate Bench has also taken view that in such cases, the proceeding can be considered to be lapsed. In the present matter, same situation is arising. It is also relevant to refer to the order dated 6/9/2000 relied on by the petitioner passed in W.P. No. 603/2000 [**Gaurav Agroplast Ltd. Vs State of M.P.**], wherein this High Court has held that if a possession panchnama is not signed by person in possession, then said panchnama is empty/paper formality. A bare reading of the Panchanama clearly indicates that there is no signature of the petitioner or



on his behalf is found on the said Panchanama. Relevant paragraph no. 16 is required to be reproduced, which is under :

“16. No possession in fact also seems to have been taken on the spot and the panchnama (R/6) appeared to be an empty formality. Curiously enough, this document is not signed by any panch witness much less by any person in possession of the land SO as to intitle it to be called as panchnama. It is further significant to note that as per this panchnama itself no possession is taken of those parts of the land on which construction had been made which, as evidenced by this very document, constituted the major part of the land. Effective possession of such a land can be taken only by removing constructions found No such exercise was, however, thereon. undertaken in the instant case.”

18/ It is also relevant to consider the submissions made by the petitioner that when Indore Municipal Corporation issued notice to the petitioner Landowner being the Bhumiswami and possession holder regarding construction of a Master Plan road upon a part of the petitioner's land, the Petitioner Landowner also filed a Writ Petition No. 29736 of 2025 before this Hon'ble Court seeking directions towards compensation in terms of FAR/TDR to be issued to the petitioner being the Bhumiswami of such land. It also transpires that this Hon'ble Court had directed the respondent in that case by disposing the said writ petition on 31/07/2025 to consider the case of petitioner for grant of double FAR. It also transpires that though it is the case of the respondent/ Authority that the compensation amount has been deposited, but the said amount is not paid to the petitioner. It is also relevant to refer regarding this contention that the respondent / IDA has paid the amount to the Collector., the communication dated 09/11/2008, which is part of the respondent / IDA, who has written to the Collector and on perusal of that and referring to the meaning of Section 31 of the Land Acquisition Act, 1894, such deposit has not been accepted as “**paid**” and therefore, prima-facie, the respondent has resisted that such question cannot be adjudicated in writ jurisdiction. It is also relevant to refer to the judgment delivered in the case of *State of Uttar Pradesh and Another Vs. Ehsan and another*



reported in **(2024) 14 SCC 269**, whereby the Court has considered the similar situation, where the disputed question regarding the possession is raised by the parties and the Court has specifically held that the writ jurisdiction can be exercise in such matters. For the sake of reference, relevant paragraphs no 22 to 24 are reproduced as under :

22. Surprisingly, the issue whether possession was taken prior to the commencement of the Repeal Act, 1999, though had arisen directly for determination in writ petition No.9702 of 1987, was not decided. This issue was critical because rights of the parties were dependent on its determination. Yet, for reasons unknown, the High Court chose not to decide the same while disposing of writ petition no. 9702 of 1987.

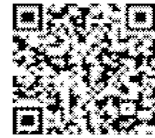
23. The factum of possession is essentially a question of fact. Although there is no hard and fast rule that a question of fact cannot be determined in writ jurisdiction but, in the event of a serious dispute between the parties on a question of fact, a writ court ordinarily refrains from deciding it. More so, when writ petitioner has an alternative remedy where such disputed questions of fact can be decided authoritatively.

24. In the instant case, a serious dispute had arisen regarding taking of actual possession of the surplus land. According to the appellants, physical possession of the surplus land was taken on 8.3.1979, after serving notice under Section 10(5) of the Ceiling Act, 1976 on the land holder on 27.02.1979. On the other hand, according to the original petitioner actual possession of the surplus land was never taken from him though the State may have taken possession on paper.

19/ In this background, it is now required to refer to the second contention of the petitioner that the proceeding under sections 6, 9 and 11-A of the Act, 1894 stands nullified. For consideration of this, sections 4, 5-A, 6, 9, 11-A, 24(i) (ii), 31 and 48 of the Land Acquisition Act, 1894 are reproduced as under :

“4 Publication of preliminary notification and powers of officers thereupon-

(1)Whenever it appears to the [appropriate Government] *[Substituted by A.O.1950.]* that land in any locality [is needed or] *[Inserted by Act 38 of 1923, Section 2.]* is likely to be needed for any public purpose [or for a company] *[Inserted by Act 38 of 1923, Section 2.]*, a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language] *[Inserted by Act 68 of 1984, Section 4 (w.e.f. 24.9.1984).]*, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said



locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)] *[Inserted by Act 68 of 1984, Section 4 (w.e.f. 24.9.1984).]*

(2) Thereupon it shall be lawful for any officer, either, generally or specially authorised by such Government in this behalf, and for his servants and workmen, to enter upon and survey and take levels of any land in such locality; to dig or bore in the sub-soil; to do all other acts necessary to ascertain whether the land is adapted for such purpose; to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crops, fence or jungle: Provided that no person shall enter into any building or upon any enclosed Court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

5-A. Hearing of objections

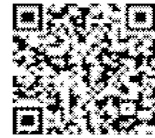
(1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, [within thirty days from the date of the publication of the notification] *[Substituted by Act 68 of 1984, Section 5, for " within thirty days after the issue of the notification" (w.e.f. 24.9.1984).]*, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard [in person or by any person authorised by him in this behalf] *[Substituted by Act 68 of 1984, Section 5, for " either in person" (w.e.f. 24.9.1984).]* or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, [either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government] *[Substituted by Act 13 of 1967, Section 2, for certain words (w.e.f. 12.4.1967).]* The decision of the [appropriate Government] *[Substituted by A.O.1950.]* on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.] Declaration of intended acquisition

6 Declaration that land is required for a public purpose

(1) Subject to the provisions of Part VII of this Act, [when the



[appropriate Government] *[Substituted by Act 38 of 1923, Section 4, for "whenever it appears to the Local Government" .]* is satisfied, after considering the report, if any, made under section 5-A, sub-section (2)], that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders [and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5-A, sub-section (2)] *[Inserted by Act 13 of 1967, Section 3 (w.e.f. 12.4.1967).]*: [6Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification;

or

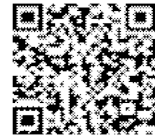
(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:]

[Provided further] *[Substituted by Act 13 of 1967, Section 3, for "Provided that" (w.e.f. 12.4.1967).]* that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

[Explanation 1. In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2. Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.] *[Inserted by Act 68 of 1984, Section 6 (w.e.f. 24.9.1984).]*

(2)[Every declaration] *[Substituted by Act 13 of 1967, Section 3, for " the declaration" (w.e.f. 12.4.1967).]* shall be published in the Official Gazette, [and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state] *[Substituted by Act 68 of 1984, Section 6, for " and shall state" (w.e.f. 24.9.1984).]* the district or other territorial division in which the land is situate, the purpose for which it is needed, its



approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration the [appropriate Government] *[Substituted by A.O.1950.]* may acquire the land in a manner hereinafter appearing.

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 compensation for all interests in such land may be made to him.

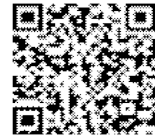
(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), 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 be entitled to act for persons so interested, as reside or have agents authorised 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 a letter addressed to him at his last known residence, address or place of business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)] *[Substituted by Act 68 of 1984, Section 7, for "registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)" (w.e.f. 24.9.1984).]*

11-A. Period within which an award shall be made *[Inserted by Act 68 of 1984, Section 9 (w.e.f. 24.9.1984).]*

(1) The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse: Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement. Explanation. In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.] *[Substituted by Act 68 of 1984, Section 6, for the first proviso (w.e.f. 24.9.1984).]*



31. Payment of compensation or deposit of same in Court -

(1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted: Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount: Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18: Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the [appropriate Government] *[Substituted by A.O.1950.]* instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

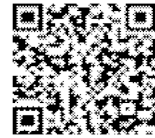
(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and [competent] *[As to persons who are competent to contract, see Section 11 of the Indian Contract Act, 1872 (9 of 1872).]* to contract in respect thereof.

48. Completion of acquisition not compulsory, but compensation to be awarded when not completed-

(1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.



Section 24 in The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013

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,-

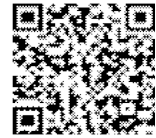
(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(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, 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:

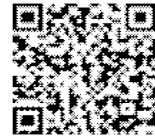
Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

20/ Keeping these Sections in mind, the order passed by the Division Bench of this Court in earlier occasion on 26/04/2010, whereby the Division Bench had struck down invoking of urgency under section 17(4) and granted liberty to the petitioners to file objections under section 5A and 48 of the Act and in view of that, all the proceedings beyond the stage of 5A, automatically stood nullified. Therefore, there is some substance in the submissions made by the petitioner that in the eyes of law, no Award *qua* the petitioner-landowner is existing pursuant to the said notification. It is also required to be considered the submissions made by the petitioner that petitioner-landowner under section 5A r/w 48 of the Act, 1894 has filed objections before the competent authority,



which is pending, even after lapse of around 9 years and another petition i.e. W.P. no. 13248 / 2024 was filed pursuant to the said proceeding, which is still pending for consideration and is kept for hearing along with these two matters, which will be decided by way of passing separate order. It is also required to be noted that from the scheme of the Act, 1894, it transpires that only after adjudication under section 5A, the competent authority can proceed further for the proceedings under section 6,9 and 11A of the Act, 1894. Therefore, the contention raised by the respondents that the compensation for the present petitioners-landowners has already been deposited is not found in consonance with the legal position as the final award for the petitioners is yet to be adjudicated in the eyes of the Law. Therefore, the contention of the petitioner, on that count also, requires to be accepted.

21/ Another contention raised by the petitioner is that there is change in public purpose during the course of acquisition. It is pointed out by the petitioner as well as the respondents from the record that the State Government in its notification under section 4 dated 03.10.2002 had notified that the said Land is required or is likely to be required for the public purpose set out in column (6) of the Schedule, notice to that effect was thereby given to all the concerned persons in accordance with the provisions of the sub-section (1) of section 4 of the LA Act, 1894. It was further directed that the provisions of section 5-A of the said Act shall not apply in relation to the said Land as the provisions of section 17 of the said Act have been made applicable. Invoking of urgency Clause is challenged before this Hon'ble Court keeping that thing in mind. It is also relevant to note that the Government has also stated on record that the public purpose has now been changed and public purpose is now changed as mentioned in the Master Plan Indore -2021. It is also contended by

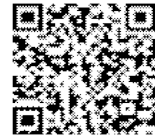


counsel for the petitioner that there could not have been in law a change in the public purpose subsequent to issuance of Section 4 Notification under the Act, 1894 and if a change in public purpose is permitted to the Government after issuance of Section 4, then the filing of 5-A becomes redundant and the objections under section 5A are filed keeping in mind the public purpose specified in Section 4 notification. It is also relevant to refer to the case laws cited by the petitioner i.e. ***Narpat Singh vs. Jaipur Development Authority (2002) 4 SCC 666*** wherein it is held that the land acquired for the purpose, for which must be used. It is also relevant to refer to another judgment delivered in the case of ***Lal Bahadur vs State of UP (2018) 15 SCC 407***. relied by the petitioner, of which relevant paragraphs no. 12 and 25 are reproduced as under :

12. Firstly, we take up the issue regarding change of the area from green belt to a residential one. It is not in dispute that the area had been reserved for green belt in 1995 Master Plan. We find that it was absolutely unwarranted exercise of power on the part of the respondents to change the area from green belt to residential one in Master Plan 2021. Learned Senior Counsel is right that some invisible hand was behind the change that is why the respondents acted in tandem and the notification under section 4 of the Act had been issued on the same very day on which the Master Plan had been finalised by the State Government. Even before the master plan was notified in the Gazette 09-04-2005, under the Act of 1973, the notification had been issued under section 4 of the Act on 31.03.2005. We wholly agree with the submission of the learned counsel on behalf of the appellant that change of the area from green belt to residential was, in fact, in flagrant violation of the provisions contained in Articles 21 and 48A and also 51A (g) of the Constitution.

25. As we have held that exercise of conversion was not legal one that will have some impact on the validity of the notification under Section 4 and dispensation of enquiry to be held under Section 5A but in the instant case we find that since the first prayer of the appellant had been allowed, the area has been ultimately reserved and utilized for the purpose of green belt only and as permitted by this Court park had been developed and it shall be maintained as such. We need not go into further into question of dispensation of inquiry whether it was rightly dispensed with. In view of subsequent development and relief granted to appellants we decline to intervene.

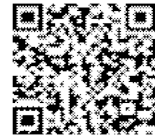
22/ Therefore, there is also substance in the contention raised by the petitioner that the change of public purpose during the course of



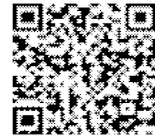
acquisition is having good cause which requires to be considered positively in favour of the petitioner.

23/ Last contention raised by the petitioner is regarding purpose of Scheme no. 139, no longer exists *qua* the petitioner's land. He has submitted that the purpose of the Scheme No.139 was initially proposed for construction of MR-10 road, flyover and Industrial plots. But, after implementation of Master Plan Indore -2021, during the pendency of litigation, the purpose of Scheme No. 139 was not possible to be implemented as the land use of the whole are modified as per the 'Super Corridor. It is also pointed out by the petitioner that the petitioner has already surrendered area admeasuring 4.111 hectares, upon which the MR-10 Road and Flyover has been constructed long back and the MR-10 stands developed and completed further the purposes of industrial plots can never be developed by IDA and hence the land of the Petitioner is no longer required for the purposes of Scheme No. 139. This contention is found good as the purpose of the land acquisition as originally proposed under section 4 of Act, 1894 stands changed and vitiated to such an extent, upon implementation of Master Plan Indore 2008. Therefore, there is some substance in the submission that the proceedings of land acquisition have lapsed on this count also.

24/ Therefore, considering the submissions made by counsel for the respondents, whereby counsel for the respondents has mainly acted on the aspect of taking over possession by drawing *Panchanama*, deposit of the compensation amount before the Collector and the some observations made in the judgment in the case of *Indore Development Authority (supra)*. There is no dispute about the ratio of the said judgment and the observations made in that judgment, which is otherwise, binding, but considering the fact that the witness Ramprasad S/o Ratan Singh on



26/08/2010 has filed an affidavit, which is produced before the Hon'ble Supreme Court, which clearly submits that he has not signed the Panchanama, therefore, in absence of any material like notice etc. or also by considering fact that the Panchanama does not bear the signature of the petitioner or any representative of the petitioner, speaks that such Panchanama cannot be relied upon in the eyes of law. It is also required to be noted that even the Hon'ble Supreme Court has granted the order of status-quo vide order 10/10/2005 passed in S.L.P in respect of the said land. Though there are several litigation between the parties for various reasons, one fact transpires that the physical possession still remains with the petitioner. It also transpires that though it is claimed that the possession of the land in question is taken by the respondent / IDA by drawing Panchanama, such factum is disputed before the appropriate Court much earlier and thereafter also, considering the fact that the amount of compensation, though deposited before the Collector by the IDA, it is neither deposited before the concerned Reference Court, nor paid to the petitioner / original landowner and also considering the fact that there is serious doubts about the validity and legality of the proceedings in factual background of the present case, more particularly, in view of the fact that the application filed by the petitioner under section 5-A of the Act, 1894 is still pending, therefore, further proceeding pursuant to Section 4 Notification and more particularly the proceedings under sections 6, 9 and 11-A of the Act, 1894 cannot be proceeded unless the objections under section 5-A of the Act, 1894 is adjudicated by the Competent Authority. All these aspects are in favour of the petitioner, though this Court is conscious that the Court should be very slow in interfering with the process of land acquisition on the count of individual interest by considering the larger interest. However, the material available

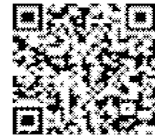


on the record clearly establishes that in view of the objections filed under section 5-A of the Act, 1894, the other proceedings initiated pursuant to sections 6, 9 and 11-A of the Act, 1894 qua the petitioner are not to be considered in accordance with law and the Award, if any, passed by the concerned Officer cannot be considered in consonance with the provisions of the Law and also considering the fact that now, the purpose has changed in view of the Indore Development Plan for the land in question and the land in question is admittedly occupied by the petitioner for years together and crops of the petitioner is also standing as claimed by the petitioner, which is also indicated from the photographs produced by the petitioner in the petition, I am of the view that action of the respondents / Authority for claiming the land of the petitioner as acquired land and this is a fit case where the Court has to exercise powers under Article 226 of the Constitution of India, when the action of the respondents/ Authority can be considered as arbitrary, illegal and unconstitutional against the settled position of law and in violative of Article 300-A of the Constitution of India, which is constitutional right and in view of section 24(2) of the Act, 2013, it can be easily inferred that as the possession is not taken over or the amount of compensation is not paid, in such condition, the proceeding will be deemed to have lapsed.

25/ It is also relevant here to refer to the judgment delivered in the case of *State of Harayana and Others Vs. Aalamgit and Others* reported in (2025) 6 SCC 397, of which, for the sake of reference, relevant paragraphs no. 23 to 25 are reproduced as under :

23. Take note of the said contention in such cases, we reserve liberty to the respondents-land owners/subsequent purchasers to raise all available contentions with regard to the validity of the acquisition which have been undertaken under the LA Act of 1894 before the High Court. It is needless to observe that those contentions would be considered on their own merits de hors any contention raised under sub-section (2) of Section 24 of the 2013 Act.

24. 15. It was further contended by learned senior counsel and



learned counsel for the respondents-land owners/subsequent purchasers that between the period of the impugned orders of the High court and today when the matters are being remanded to the High Court for reconsideration there have been certain developments, there may be third party rights created, there may be other developmental activities which have taken place on the land sought to be acquired. This is because there may have been quashing of the acquisition notifications and/or orders being passed by holding that there was lapse of acquisition under sub-section (2) of [Section 24](#) of the 2013 Act and further on the basis of other contentions which were accepted by the High Court and there may also have been release of those lands to the respondents-land owners/subsequent purchasers as a consequence.

25. Learned senior counsel and learned counsel for respondents- land owners/subsequent purchasers contended that having regard to the long lapse of time between the quashing of the acquisition or a declaration that they have lapsed and the matters now being remanded to the High court for reconsideration and there being subsequent developments with regard to the subject land in question, liberty may be reserved to the respondents-land owners/subsequent purchasers to raise all contentions on the basis of equity and in accordance with law. We find that such a request made is reasonable and in the circumstances, we reserve liberty to the respondents-land owners/subsequent purchasers to raise those contentions before the High Court. Obviously appellant-State will have an opportunity to also oppose those contentions in accordance with law.

26

26/ It is also relevant to refer to the judgment delivered by Hon'ble Supreme Court in the case of *Surya Dev Rai Vs. Ram Chander Rai and others* reported in **2003 (6) SCC 675** for the scope of exercise powers under Article 226 of the Constitution of India. For the sake of reference, paragraphs no.6 to 10 are reproduced as under :

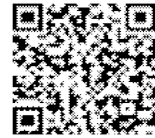
Writ of Certiorari

6. According to Corpus Juris Secundum (Vol.14, page 121) certiorari is a writ issued from a superior court to an inferior court or tribunal commanding the latter to send up the record of a particular case.

7. H.W.R. Wade & C.F. Forsyth define certiorari in these words :-

"Certiorari is used to bring up into the High Court the decision of some inferior tribunal or authority in order that it may be investigated. If the decision does not pass the test, it is quashed – that is to say, it is declared completely invalid, so that no one need respect it.

The underlying policy is that all inferior courts and authorities have only limited jurisdiction or powers and must be kept within their legal bounds. This is the concern of the Crown, for the sake of orderly administration of justice, but it is a private complaint which sets the Crown in motion."(Administrative Law,



Eighth Edition, page 591).

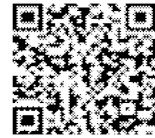
8. The learned authors go on to add that problem arose on exercising control over justices of the peace, both in their judicial and their administrative functions as also the problem of controlling the special statutory body which was addressed to by the Court of King's Bench. "The most useful instruments which the Court found ready to hand were the prerogative writs. But not unnaturally the control exercised was strictly legal, and no longer political. Certiorari would issue to call up the records of justices of the peace and commissioners for examination in the King's Bench and for quashing if any legal defect was found. At first there was much quashing for defects of form on the record, i.e. for error on the face. Later, as the doctrine of ultra vires developed, that became the dominant principle of control" (page 592).

9. The nature and scope of the writ of certiorari and when can it issue was beautifully set out in a concise passage, quoted hereafter, by Lord Chancellor Viscount Simon in *Ryots of Garabandho and other villages Vs. Zamindar of Parlakimedi and Anr.* – AIR 1943 PC 164.

"The ancient writ of certiorari in England is an original writ which may issue out of a superior Court requiring that the record of the proceedings in some cause or matter pending before an inferior Court should be transmitted into the superior Court to be there dealt with. The writ is so named because, in its original Latin form, it required that the King should "be certified" of the proceedings to be investigated, and the object is to secure by the exercise of the authority of a superior Court, that the jurisdiction of the inferior tribunal should be properly exercised. This writ does not issue to correct purely executive acts, but, on the other hand, its application is not narrowly limited to inferior "Courts" in the strictest sense. Broadly speaking, it may be said that if the act done by the inferior body is a judicial act, as distinguished from being a ministerial act, certiorari will lie. The remedy, in point of principle, is derived from the superintending authority which the Sovereign's Superior Courts, and in particular the Court of King's Bench, possess and exercise over inferior jurisdictions. This principle has been transplanted to other parts of the King's dominions, and operates, within certain limits, in British India."

10. [Article 226](#) of the Constitution of India preserves to the High Court power to issue writ of certiorari amongst others. The principles on which the writ of certiorari is issued are well-settled. It would suffice for our purpose to quote from the 7-Judge Bench decision of this Court in [Hari Vishnu Kamath Vs. Ahmad Ishaque and Ors.](#) – (1955) 1 SCR 1104. The four propositions laid down therein were summarized by the Constitution Bench in [The Custodian of Evacuee Property Bangalore Vs. Khan Saheb Abdul Shukoor](#) etc. – (1961) 3 SCR 855 as under :-

".....the High Court was not justified in looking into the order of December 2, 1952, as an appellate court, though it would be justified in scrutinizing that order as if it was brought before it under [Article 226](#) of the Constitution for issue of a writ of certiorari. The limit of the jurisdiction of the High Court in issuing writs of certiorari was considered by this Court in [Hari Vishnu Kamath Vs. Ahmad Ishaque](#)



1955-I S 1104 : ((s) AIR 1955 SC 233) and the following four propositions were laid down :-

- "(1) Certiorari will be issued for correcting errors of jurisdiction;
- (2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice;
- (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.
- (4) An error in the decision or determination itself may also be amenable to a writ of certiorari if it is a manifest error apparent on the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

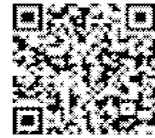
27/ After dictation of the order, when the draft is ready, written submissions by the respondent / IDA is filed, whereby main contentions are urged in written, which is as under :

1. The Hon'ble High Court in WP No. 1971/2002 dismissed the writ petition upholding the acquisition, upholding that the public purpose of farm land and industrial purpose do not violate the master plan. All the objections rejected by holding that they were technical in nature.

2. The Writ Appeal No. 321/2006 decided on 26.07.2010 relying on the decision in the case of Hajari V/s State, WA No. 614/2007 wherein the Hon'ble High Court did not interfere with the acquisition for the scheme of the IDA, but petitioner left free to raise objection U/s. 5-A and section 48 of LA Act if possession of the land was not taken. This objection shall not include the land utilized in construction of MR-10.

3. The affidavit of witness Ramprasad dated 26.08.2010 cannot be relied upon as after drawing of panchanama on 10.10.2005, he did not swear any affidavit complaining that he was not a party to the possession panchanama before any court of law even in the High Court in WA No. 321/2006 (Annexure P/15) and also in Supreme Court in SLP No. 21580/2005 (Annexure P/13) but after more than 5 years swore this affidavit in the Supreme Court in SLP No. 7284-7285/2010, where the Supreme Court did not decide the case on merits, also did not give any finding on this affidavit but disposed of the matter vide order dated 10.02.2016 by not interfering with the writ appeal order. But only granted time to the petitioner to approach the authority by filing objection U/s. 5-A and Section 48 of the Land Acquisition Act.

4. Land Acquisition Act, 2013 came into force on 01.01.2014, the award is dated 23.11.2004, therefore cut off date of 5 years is 23.11.2009 but before the date, deposit of the entire amount was already effected on 19.11.2008 i.e. before 2009. This amount was deposited in the treasury and even the petitioners were aware of the land acquisition proceeding and



the passing of the award and the notice (Annexure R/7) dated 06.05.2005 U/s. 12 of Land Acquisition Act was issued and received by the petitioner on 27.05.2005. No rejoinder disputing the receipt of notice informing about the passing of the award filed by the petitioner.

5. The possession of the land was taken on 10.10.2005.

6. The details of the interim relief granted by the Hon'ble Court at various stages, WP No. 1971/2002 filed on 03.02.2002. Interim relief subsisted till dismissal of the writ petition on 21.06.2004. This fact is also evident from the fact that the IDA in reply stated that due to subsistence of interim order, the possession not taken.

7. On 15.07.2004 LPA filed, Interim relief continued and LPA dismissed on 08.09.2005.

8. On 10.10.2005 SLP status quo as is exist at 2.45 PM granted.

9. On 14.08.2006 final order in SLP, status quo continued for a period of two months.

10.. Writ Appeal No. 321/2006, stay continued.

11. On 26.04.2010 Writ Appeal decided.

12. SLP 7284-7285/2010 filed, interim relief continued.

13. On 10.02.2016 SLP disposed off, granting liberty to approach authority U/s. 5-A, Interim relief continued for a period of further two months from the date of order.

14. On 18.03.2016 WP No. 2191/2016 filed. On 10.04.2016 interim relief granted.

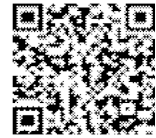
15. On 25.10.2017 interim relief granted extended and to be continued till Section 5-A objections decided. Further 15 days interim protection if 5-A objections decided against the petitioner.

16. That the interim relief still continuing as 5-A objections still pending and not decided.

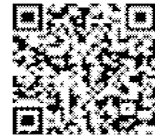
17. WP No. 13268/2007 On 14.05.2021 interim relief granted to the effect that no coercive steps be taken in the matter. The said writ petition is pending consideration.

18. The period of interim reliefs, as per settled position in the case of IDA V/s Manoharlal is to be excluded and on the date of coming into force of the new land acquisition act 2013 on 01.01.2014, the interim relief continuing, thus the possession so protected under the interim order also do not constitute lapsing U/s. 24(2) of the Act of 2013 as the provision of 'or' is to be read as 'And/Nor' therefore the provisions of section 24(2) are not attracted in the matter as compensation paid and possession already with the authority and even the possession subsequently protected by the Hon'ble Court and also by the Hon'ble Supreme Court.

28/ Looking to the submissions made by counsel for the respondent / IDA in her written submission regarding the case of **Indore Development Authority Vs. Manoharlal and others** (*supra*), which is distinguishable on facts and law in many ways, supports the contentions made by the petitioner which is enumerated as under :

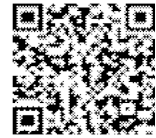


- i) The most distinguishable feature is that in the present case, the State Government invoked an urgency clause by taking recourse of section 17 of the Act, 1894 and allegedly completed the possession proceeding by passing the Award on 23/11/2004, however, the Division Bench of this High Court, subsequently, while passing the order dated 26/04/2010 in W.A. No. 321 of 2006, the said order was upheld by Hon'ble Supreme Court vide order dated 10/02/2016 and thereafter, the petitioner filed the said objections on 04/03/2016. Accordingly, Hon'ble High Court and the Hon'ble Supreme Court turned the clock back and granted liberty to the petitioner to raise objections under section 5-A read with section 48 of the Act, 1894 only qua the land, which has not been acquired for MR-10 and the flyover, which could be construed as if not award *qua* the remaining land of the petitioner has been passed.
- ii) The State Government in the present matter is guilty of the inaction as since 04/03/2016, the State Government has not decided the objections filed by the petitioner, which were to be decided within a period of 3 months. For the first time, the notice for hearing on objections on section 5-A of the Act, 1894 was issued by an incompetent Authority on 06/05/2024 and therefore the State Government is guilty of the inaction for a prolong period of about 8 years.
- iii) Now, it is also required to refer to the judgment delivered in the case of ***Indore Development Authority Vs. Manoharlal and others (supra)*** regarding the contentions raised by the respondent/IDA. By referring to paragraph no. 226 in the



said judgment as already averred, since the clock has already turned back to the stage of filing of objection by categorically observing that the State is entitled to issue more than one notification under section 6 of the Act, 1894, in such circumstances, the Award passed under section 11 of the Act, 1894 does not attain finality. Consequently, even if it is treated as has been paid as per para. 226 it could also be then, which has been acquired for MR-10 and the land acquisition proceeding is still lapsed because of inaction of the respondents/ Authority to decide the objections under section 5-A of the Act, 1894 for a period of about 8 years and then to issue fresh notification under section 6 of the Act, 1894 and thereafter, to pass the Award.

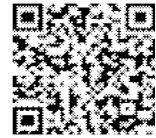
- iv) Regarding para. no. 289 and 309 of the *Manoharlal's judgment*, in the present case, notification under section 4 read with urgency clause under section 17 of the Act, 1894 was issued on 11/10/2002. The declaration under Section 6 of the Act, 1894 was published on 29/10/2002 and the Award was passed on 23/11/2004 and for the first time, the petitioner got a Stay on 10/10/2005, that is to say, there was a period of 3 years with the respondent / Authority after issuance of Section 4 Notification. Hence, in such circumstances, the respondent cannot take a plea that there was a Stay by the Court, hence the possession could not be taken, particularly, when the time limit fixed under section 4 Notification and under section 6 Declaration is one year as is evidently clear from the second proviso to section 6(ii), which reads as under :



“ Published after commencement of the Land Acquisition Act [amendment Act, 1894] shall be made after expiry of one year from the date of publication of the notification”

Thus, on these count also, the land acquisition lapses even under the provisions of the Act, 1894.

- v) In reference to paragraph no. 329 of the *Manoharlal's case*, it is required to be noted that it is true that nobody should be prejudiced on account of the Court Order, but here the notification under section 4 was issued on 11/10/2002, thereafter for the first time, the Stay was granted on 10/10/2005, that is after a period of 3 years and there is inaction on the part of the State / Authority to decide section 5-A objections and thereafter issue a fresh declaration under section 6 and thereafter, pass modified award/order. Despite the order of Hon'ble Supreme Court dated 10/02/2016, the respondents have not taken any steps to decide the section 5-A objections for a period of almost 8 years. In such circumstances, they are bound to be held guilty of inaction and cannot take shelter of the fact that nobody should be penalized for a Court Order.
- vi) In reference to paragraph no 335 of the *Manoharlal's case*, it is required to be noted that restitution in the present case can also be ordered under the old Act, 1894, wherein the time lag between section 4 Notification and section 6 Declaration is one year, even if the said period is counted from the order of Hon'ble Supreme Court dated 10/02/2016 granting liberty to the petitioner/s to raise objections under



section 5-A read with section 48 of the Act, 1894, then also the period of one year has expired. The stage over possession only, hence under the old Act, 1894 also, the acquisition has lapsed.

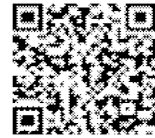
vii) In reference to paragraph no. 356 of the *Manoharlal's case*, it is required to be noted that in the present case, acquisition was in fact and even alleged possession is taken in fact

a) For construction of MR- 10 and flyover which have been under construction long back.

b) Now, for the development of industrial and agricultural farm house which is in terms of New Development Plan of Indore City, which came into force on 01/01/2008, cannot be done.

Consequently, the second fact, even if there is one order by Hon'ble Court, cannot be implemented. In such circumstances, the land acquisition proceeding deserves to be dropped.

viii) In reference to contentions raised relied on paragraph no. 366.3 and 366.4 by the respondents in the *Manoharlal's case*, it is true that both the aspects, the possession having not been taken and compensation having not been tendered, have to be satisfied. The possession is admittedly with the present petitioners since the initial proceeding is initiated under the Land Acquisition Act, 1894. So far as the compensation part is concerned, as already stated hereinabove, after passing of the order passed by the Hon'ble High Court and the Hon'ble Supreme Court on 10/02/2016, the ball has been put back to the



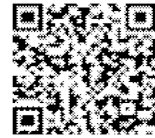
stage of section 5-A objections. The least, that was expected from the respondent/ State / Authority, was to decide the objections under section 5-A read with section 48 of the Act, 1894 and thereafter to issue a fresh section 6 Declaration and thereafter, either to modify the Award, or to pass any appropriate order in this regard.

29/ Considering the material available on the record and in view of the above discussions regarding the contentions raised by the respondent / IDA in written submissions, having not done so, there is inaction on the part of the respondent / Authority and consequently, it can be said that neither the possession has been taken over, nor the compensation has been paid to the petitioners and the land acquisition proceedings have lapsed under the old Land Acquisition Act, 1894 [time lag of more than one year between section 4 Notification and no declaration under section 6 till today] as well as the new Land Acquisition Act, 2013 and therefore, considering all these aspects and the above mentioned discussions, the written submissions made by counsel for the respondent / IDA are not helpful to the respondents and the case of the petitioner is required for the consideration of the prayers made in present petitions.

30/ In light of the aforesaid discussions, both the petitions deserve to be allowed. Accordingly, both the petitions are allowed in terms of the main prayer clause - 7(i) in respective writ petitions which read as under :

31/ The prayer clause in W.P. no. 31107 of 2023 reads as under :

- i) Issue a writ in the nature of CERTIORARI to quash and set aside the land acquisition proceedings initiated by the Respondents under the Act, 1894 in respect of Petitioner's land situated at Village Kumerdi, Tehsil Sanwer, District Indore, Madhya Pradesh (as more particularly described in Paragraph 5(1) above), and grant liberty to petitioner to use their said land as per their sweetwill.



- ii) Alternatively, pass an appropriate order or writ in the nature of MANDAMUS directing the respondents Nos.1to 4 to pass fresh award/compensation towards acquisition of petitioner' lands in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and;
 - iii) Pass any other writ or further orders as deemed fit to this Hon'ble Court in the facts and circumstances of the case may kindly be passed in favorof the Petitioner.
 - iv) Allow this Writ Petition with costs
- 32/ The prayer clause in W.P. no. 1104 of 2024 reads as under :

i) Issue a writ in the nature of CERTIORARI to quash and set aside the land acquisition proceedings initiated by the Respondents under the Act, 1894 in respect of Petitioners' land situated at Village Kumerdi, Tehsil Sanwer, District Indore, Madhya Pradesh (as more particularly described in Paragraph 5(1) above), and grant liberty to petitioners to use their said land as per there sweet will.

ii) Alternatively, pass an appropriate order or writ in the nature of MANDAMUSdirecting the respondents Nos. 1 to 4 to pass fresh award/compensation towards acquisition of petitioners' lands in accordance with the provisions of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and;

iii) Pass any other writ or further orders as deemed fit to this Hon'ble Court in the facts and circumstances of the case may kindly be passedin favorofthe Petitioner.

iv) Allow this Writ Petition with costs

33/ The signed order be kept in the file of **W.P. Nos.31107 of 2023** and a copy thereof be kept in the file of connected **W.P. no.1104 of 2024**

CC as per rules.

(SANDEEP N. BHATT)

JUDGE

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