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No. 22/22/2009-RD /6816

Dated:- 15/07/2020

C I R C U L A R

The Constitution Bench of the Hon'ble Supreme Court has decided the issue of interpretation of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is as follows:-

1. Under the provisions of section 24 (1) (a) in case the award is not made as on 01/01/2014 the date of commencement of Act of 2013, there is no lapse of Proceedings. Compensation has to be determined under the provisions of proceedings, 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shall continue as provided under section 24 (1) (b) of the Act of 2013 under the Act of 1894 as it has not been repealed.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 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 been paid, possession has not been taken then there is no lapse.

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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 of majority of land holdings then all beneficiaries (land owners) 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 provision 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 Land owners 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 of 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 01/01/2014 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 and land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e. 01/01/2014. 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.

This is to be noted for necessary action.

dc
Sudh
27/07/2020

(Sudin A. Natu)
Under Secretary (Revenue-I)

To,

1. The Collector/District Magistrate (North), Collectorate Building, Panaji -Goa.
2. The Collector/District Magistrate (South), Matanhy Saldanha Administrative Complex, Collectorate Building, Margao Goa
3. Guard file
4. O/c.