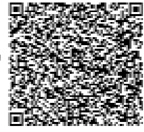
2025:PHHC:149359-DB 

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.24593 OF 2025 (O&M)

Deepak Kumar @ Deepak Jerath ...Petitioner

Versus

State of Haryana and others ...Respondents

AND

CWP NO.25344 OF 2025 (O&M)

Savita Garg ...Petitioner

Versus

State of Haryana and others ...Respondents

CWP NO.25346 OF 2025 (O&M)

Mohinder Kumar Garg ...Petitioner

Versus

State of Haryana and others ...Respondents

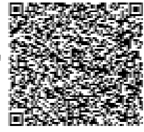
1.	The date when the judgment is reserved	16.10.2025
2.	The date when the judgment is pronounced	20.11.2025
3.	The date when the judgment is uploaded	21.11.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Shailender Jain, Senior Advocate with
Ms. Dhivya Jerath, Advocate and
Mr. Munish, Advocate,
for the petitioner (s).

Mr. Ankur Mittal, Addl. Advocate, Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Ms. Kushaldeep Kaur Manchanda, Advocate,
for respondent No.2-HSVP.



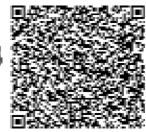
LAPITA BANERJI, J.

By this common judgment, three writ petitions, being CWP No.24593 of 2025 *Deepak Kumar @ Deepak Jerath v. State of Haryana and others,* CWP No.25344 of 2025 *Savita Garg v. State of Haryana and others* and CWP No.25346 of 2025 *Mohinder Kumar Garg v. State of Haryana and others*, are being disposed of, as common questions of fact and law arise therein. For the sake of convenience, the facts from CWP No.24593 of 2025 (*Deepak Kumar @ Deepak Jerath v. State of Haryana and others*) are being taken into consideration.

2. The prayer in the present petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ of mandamus directing the respondents to de-notify the land of the petitioner under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act") and for issuance of a writ in the nature of certiorari for setting-aside the notification dated August 27, 2007 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act"), declaration dated August 28, 2007 (Annexure P-5) issued under Section 6 of the 1894 Act and Award No.33 dated March 28, 2008 (Annexure P-6) passed under Section 5 (1) of the 1894 Act and all consequential/incidental proceedings qua acquisition of petitioner's land.

3. Brief facts of the case are as follows:

i) The petitioner was owner of the disputed land measuring 01 Bigha 09 Biswa in Khewat/Khatoni No.7/22, Khasra No.211 and Khewat/ Khatoni No.9/25, Khasra No.196 situated in Mauja Rampur Siyudi Hadbast No.106, Tehsil Kalka, District Panchkula (Haryana). The said land was



purchased by the petitioner from one Surender Khurana vide sale deed No.1756 dated January 11, 2005.

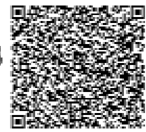
ii) A notification under Section 4 of the 1894 Act was issued on August 27, 2007 for acquiring the land in question for the purpose of development and utilisation of land as a vital link (starting from NH-22 near Surajpur and meeting at Nalagarh road near Aviation Club) for providing proper access to residential sectors 27, 28, 29, 30 and 31, Pinjore.

iii) The declaration under Section 6 read with Section 17 of the 1894 Act was made by the respondents the very next day after the notification under Section 4 of the 1894 Act was published. Citing the urgency provisions, the petitioner was not given an opportunity to file objections under Section 5-A of the 1894 Act. Pursuant to an Award for compensation passed on March 28, 2008, the compensation amount was tendered by the authorities.

iv) The petitioner had filed a previous writ petition being CWP No.5392 of 2018 for release of his land under Section 24 (2) of the 2013 Act. Vide order dated September 01, 2020 (Annexure P-9) a co-ordinate Bench of this Court permitted the petitioner to withdraw the writ petition with liberty to approach the competent authority to invoke provisions of Section 101-A of the 2013 Act, for release of his land.

v) The petitioner filed a review application in 2021 and the same was permitted to be withdrawn vide order dated October 06, 2023 by a Co-ordinate Bench, after condoning the delay in filing of the review application.

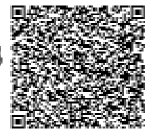
vi) Thereafter, the petitioner filed a representation under Section 101-A of the 2013 Act on June 06, 2025 sent vide e-mail dated August 10,



2025, pursuant to the liberty granted to him by the Co-ordinate Bench on September 01, 2020 for seeking release of his land under the provisions of Section 101-A of the 2013 Act. Immediately, thereafter the present writ petition has been filed on August 11, 2025, *inter-alia*, challenging the inaction on the part of the authorities in not deciding the said representation of the petitioner.

4. Mr. Jain, learned Senior advocate appearing on behalf of the petitioner submits that the respondent authorities have failed and neglected to consider the representation of the petitioner under Section 101-A of the 2013 Act, which they were legally bound to do. The respondents were under an obligation to de-notify and release the land of the petitioner primarily on the ground that urgency provision was arbitrarily and erroneously invoked under Section 17(1) of the 1894 Act. There was only one day's gap between issuance of notification under Section 4 and the declaration under Section 6 of the 1894 Act. By not allowing the petitioner to file objections under Section 5-A of the 1894 Act, he had been deprived of his valuable right of filing his objections and consideration of the same in violation of Article 300A of the Constitution of India.

5. It is vehemently argued on behalf of the petitioner that despite passage of 17 years, the public purpose for which the land had been acquired remained unfulfilled and the land still remains vacant/unutilised. The possession of land is still with the petitioner upon which he has constructed shops. The photographs along with electricity bills of the said premises are relied upon as corroborative evidence of the fact that the petitioner is still in authorised possession of the land in dispute. Therefore, it is contended that due to non-utilisation of the land for 17 years, the same



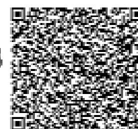
had become non-essential/unviable and therefore, should be released/de-notified.

6. Learned senior advocate relies on the decision of ***Brahma Singh and others v. Union of India and others*** passed in *Writ Petition (Civil) No.59 of 2019 dated February 05, 2020* to argue that bar of '*res judicata*' or Order II Rule 2 of CPC could not restrain a writ Court to grant reliefs in a petition filed under Article 226 of the Constitution of India.

7. Apex Court's judgment in ***Banda Development Authority, Banda v. Moti Lal Agarwal and others*** reported in *2011 (5) SCC 394* was relied upon in support of his contention that where a building or structure exists, merely visiting the spot by the concerned authorities and drawing a Panchnama would not by itself be sufficient for taking the possession of the land. Ordinarily, in such cases the authority concerned would have to give notice to the occupier of the building/structure and have to take possession of the same in the presence of an independent witness and also have to get the signatures of the owner/occupier on the Panchnama. Since the possession of the disputed land was not taken in the presence of an independent witness and the signatures of petitioner were not obtained on the Panchnama, the said possession was not legally/validly taken by the authority concerned and it is the petitioner who is in lawful possession of the land in dispute, till date.

8. Learned State counsel appeared on advance notice and filed a short affidavit dated September 11, 2025 by the Land Acquisition Collector, Urban Estate, Panchkula, on behalf of respondents No.1 and 3.

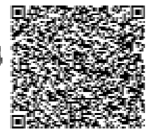
9. Mr. Mittal, learned Additional Advocate General, Haryana, relying on the said affidavit, submits that the instant petition should be



dismissed *in limine* as same has been filed after an inordinate delay of 17 years from the date of passing of the Award on March 28, 2008. Furthermore, he submits that since the earlier writ petition filed by the petitioner being CWP No.5392 of 2018 was dismissed as withdrawn vide order dated September 01, 2020, the issues raised therein cannot be re-opened as the same are hit by the principles of '*res judicata/constructive res judicata*'. He relies on the decision of Supreme Court in ***M. Nagabhushana v. State of Karnataka and others*** reported in *2011 (3) SCC 408*, to buttress his argument that the principles of '*constructive res judicata*' as explained in Section 11 of the CPC are applicable to the writ petitions.

10. Mr. Mittal also relies on a decision passed by this Bench on *September 24, 2025* in *CWP No.22413 of 2025* '***Raj Singh and others v. State of Haryana and others***', to submit that a litigant should not be permitted again and again to re-open the issues which have already been settled between the parties in a previous litigation. Next he argues that once the land is acquired by the State and vests in it, it is of no concern of the land owner whether the said land was being used for the purpose for which it was acquired or any other purpose. In support of his contention, the judgment in ***V. Chandrasekaran v. Administrative Officer***, reported in *2012 (4) RCR (Civil) 588,* is relied upon. Under Section 101-A of the 2013 Act, a right has been conferred on the State to de-notify the land, if the same is found unviable. No right has been conferred on the land owner to seek de-notification by urging/pleading unsustainability.

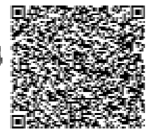
11. Further relying on the layout plan of Sector-29, Pinjore, Panchkula, he submits that the land in question i.e Khasra No.211 was required for maintaining 60 metre wide road (NH-5), 30 metres wide green



belt along with the National Highway and 24 metres wide internal service road of Sector-29, Pinjore-Kalka Urban Complex and therefore, was an integral part of the utilisation plan by the State. Considering the essentiality of the land, the same could not be treated as unviable or be released/de-notified under Section 101-A of the 2013 Act.

12. It is contended that the possession of land had been taken by the State vide Rapat Roznamcha No.930 dated March 28, 2008 and handed over to the National Highways Authority of India (NHAI) and the said land is absolutely necessary for development/providing access to residential Sectors 27 to 31, Pinjore, as vital link from NH-22. The petitioner who is in illegal possession of the land has raised unauthorised/temporary constructions along with the National Highway.

13. Learned State counsel relies on decision of Supreme Court in "***Indore Development Authority v. Manohar Lal and others*** *" reported in (2020) 8 SCC 129,* to submit that once the possession was taken by the State Government by drawing up of Rapat Roznamcha/Memorandum of Possession it would amount to taking of physical possession by the State and the title of land owner would cease therefrom. After vesting, the State becomes absolute owner of the land and no contention with regard to non-utilisation of the land for challenging the title of the State can be entertained. The land owner would cease to have control over the land and retention of possession of the disputed land by him would be only in the capacity of a trespasser. Therefore, the contention raised on behalf of the petitioner that since he is still in possession of the acquired land, the same should be released, is frivolous and devoid of any merit.



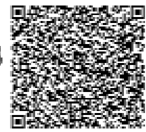
14. This Court has heard learned counsel for the parties and perused the material on record.

15. The petitioner has sought to challenge the purported acquisition for the first time by filing CWP No.5392 of 2018 approximately ten years after passing of the Award on March 28, 2008. In the said writ petition, the petitioner prayed for release of the land under Section 24(2) of the 2013 Act. The violation of petitioner's valuable right to file objection under Section 5-A of the 1894 Act by invoking provisions of Section 17 (1) of the 1894 Act and the ground of the petitioner being in continuous possession of the disputed land have been urged therein.

16. It has also been pleaded that large tracts of land have remained unused and unutilized. Paragraphs 7 and 8 of *CWP No.5392 of 2018* are set out hereinafter:

> *"xxx*
>
> *7. That a bare perusal of Annexure P-4 & Annexure P-5 would show that the Notification under Section 4 was issued on 27.08.2007 whereas immediately on the next day declaration under Section 6 was issued and as such no opportunity was given to the Petitioner to file his objections.*
>
> *8. That it is the submission of the Petitioner that despite the fact that the acquisition proceedings have culminated into Award No.33 on 2.03.2008 but till date the land so acquired by the respondents qua the present Petitioner is lying unoccupied and unused by the respondents and the same is in possession of the present Petitioner. That it is pertinent to mention that petitioner has never received any notice or intimation with respect to the compensation amount. The entire exercise of passing award and providing compensation is a mere eye wash. A copy of Award dated 28.03.2008 is annexed herewith as Annexure P-6.*
>
> *xxx"*

17. Since CWP No.5392 of 2018 was not entertained by the Co-ordinate Bench vide order dated September 01, 2020 the petitioner had

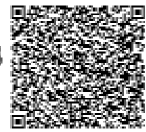


prayed for withdrawal of the said writ petition. However, the petitioner was granted the liberty to only pray for relief under Section 101-A of the 2013 Act by the Co-ordinate Bench.

18. Instead of making a representation under Section 101-A of the 2013 Act, the petitioner filed a review application in 2021. The same was "*dismissed as withdrawn*" on October 06, 2023 after condonation of delay in filing of the review petition. Thereafter, the petitioner waited for almost 01 year 08 months before filing the representation under Section 101-A of the 2013 Act vide e-mail dated August 10, 2025 before the respondent authorities. No attempt was made by the petitioner to explain such delay in filing of the representation after the dismissal of writ petition on September 01, 2020. Finally in August 2025, immediately after sending the representation the instant writ petition has been filed to again agitate the issues raised in the previous writ petition along with the added ground for release of land under Section 101-A.

19. After analyzing the facts of the case, this Court is of the view that the instant writ petition is clearly hit by the principles of *res judicata/constructive res judicata*. On the issue of applicability of principles of *res judicata/constructive res judicata*, a beneficial reference may be made to the judgment of Apex Court's in ***Daryao and others v. The State of U.P and others, 1961 SCC OnLine SC 21***. The relevant extract thereof is reproduced hereinafter:

> *"xxx*
>
> *The same question can be considered from another point of view. If a judgment has been pronounced by a court of competent jurisdiction it is binding between the parties unless it is reversed or modified by appeal, revision or other procedure prescribed by law. Therefore, if a judgment has been pronounced by the High Court in a writ petition filed by a*



party rejecting his prayer for the issue of an appropriate writ on the ground either that he had no fundamental right as pleaded by him or there has been no contravention of the right proved or that the contravention is justified by the Constitution itself, it must remain binding between the parties unless it is attacked by adopting the procedure prescribed by the Constitution itself. The binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the administration of justice on which the Constitution lays so much emphasis. As Halsbury has observed "subject to appeal and to being amended or set aside a judgment is conclusive as between the parties and their privies, and is conclusive evidence against all the world of its existence, date and legal consequences". Similar is the statement of the law in Corpus Juris: "the doctrine of estoppel by judgment does not rest on any superior authority of the court rendering the judgment, and a judgment of one court is a bar to an action between the same parties for the same cause in the same court or in another court, whether the latter has concurrent or other jurisdiction. This rule is subject to the limitation that the judgment in the former action must have been rendered by a Court or tribunal of competent jurisdiction". "It is, however, essential that there should have been a judicial determination of rights in controversy with a final decision thereon". In other words, an original petition for a writ under Art. 32 cannot take the place of an appeal against the order passed by the High Court in the petition filed before it under Art. 226. There can be little doubt that the jurisdiction of this Court to entertain applications under Art. 32 which are original cannot be confused or mistaken or used for the appel1ate jurisdiction of this Court which alone can be invoked for correcting errors in the decisions of High Courts pronounced in writ petitions under Art. 226. Thus, on general considerations of public policy there seems to be no reason why the rule of res judicata should be treated as inadmissible or' irrelevant in dealing with petitions filed under Art. 32 of the Constitution. <u>It is true that the general rule can be invoked only in cases where a dispute between the parties has been referred to a court of competent jurisdiction, there has been a contest between the parties before the court, a fair opportunity has been given to both of them to prove their case, and at the end the court has pronounced its judgment or decision. Such a decision pronounced by a court of competent jurisdiction is binding between the parties unless it is modified or reversed by adopting a procedure prescribed by the Constitution. In our opinion, therefore, the plea that the general rule of res judicata should not be allowed to be invoked cannot be sustained</u>.

[emphasis supplied]

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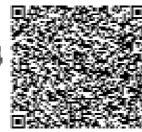
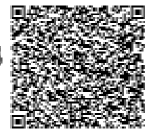


20. The same view is taken by the constitutional Bench of the Supreme Court in ***Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra*** reported in *1990(2) SCC 715*, which laid down the following principle:

> *"an adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had decided as incidental or essentially connected with subject matter of the litigation and every matter coming into the legitimate purview of the original action both in respect of the matters of claim and defence. Thus, the principle of constructive res judicata underlying Explanation IV of Section 11 of the Civil Procedure Code was applied to writ case. We accordingly hold that the writ case is fit to be dismissed on the ground of res judicata."*

21. The case of ***Brahma Singh*** *(supra)* does not come to the aid of petitioner since the same was passed on the peculiar facts of the case where the petitioners who were as employees of Supreme Court Legal Aid Committee and as employees of Supreme Court Legal Services Committee prior to the promulgation of Supreme Court Legal Services Committee Rules, 2000 were held to be eligible for retiral benefits by calculating the period of their service before promulgation of the rules. In that peculiar circumstance, Supreme Court held that though it was correct that in the previous writ petition, a general claim was made for grant of all the benefits under Rule 6 of 2000 Rules but in the later writ petition only the issue of calculation of qualifying period for retiral benefits was agitated. The contention of the Union of India that petitioners' claim was hit by the provisions of Order II Rule 2 CPC could not be accepted as it was a hyper technical ground.

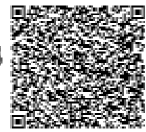
22. This Court fails to appreciate how provisions of Order II Rule 2 are applicable to the present petition as the co-ordinate Bench allowed the



writ petitioner to invoke the only provisions of Section 101-A of the 1894 Act before the appropriate authority. Since the petitioner despite Rapat Roznamcha being drawn on March 28, 2008 by the State authorities, is still in possession, this Court has no hesitation to hold that the same is unauthorized and the petitioner's status is no more than that of a trespasser.

23. Reliance on the Apex Court judgment in ***Banda Development Authority's*** case *(supra)* does not come to the aid of petitioner in any manner. ***Banda Development Authority's*** case *(supra)* is considered in paragraph 263 of ***Indore Development's*** case *(supra),* which is set out for ready reference:

> *"xxx*
>
> *263. In Banda Development Authority, this Court held that preparing a Panchnama is sufficient to take possession. This Court has laid down thus:*
>
>> *xxx*
>> *i) No hard-and-fast rule can be laid down as to what Act would constitute taking of possession of the acquired land.*
>>
>> *ii) If the acquired land is vacant, the Act of the State authority concerned to go to the spot and prepare a Panchanama will ordinarily be treated as sufficient to constitute taking of possession.*
>>
>> *iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will by itself, be not sufficient for taking possession. Ordinarily, in such cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the Panchnama. Of course, refusal of the owner of the land or building/ structure may not lead to an interference that the possession of the acquired land has not been taken.*
>>
>> *iv) If the acquisition is of a large tract of land, it may not be possible for acquiring/designated authority to take physical possession of each and every parcel of*



the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of indepedent witnesses and getting their signatures on such documents.

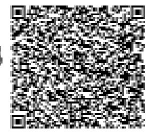
v) If beneficiary of the acquisition is an agency/ instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17 (3A) and substantial portion of the acquired land has been utilized in furtherance of the particular public purpose, then the Court may reasonably presume that possession of the acquired land has been taken. Xxx"

[Emphasis Supplied]

24. After consideration of the said judgment in ***Indore Development's*** case *(supra)* the directions with regard to taking over the possession was set out by the Constitution Bench. Relevant extract from the ***Indore Development's*** case *(supra)* is reproduced herein below:

"xxx

245. The expression used in Section 24(1)(b) is "where an award under Section 11 has been made", then "such proceedings shall continue" under the provisions of the said 1894 Act as if the said Act has not been repealed. The expression "proceedings shall continue" indicates that proceedings are pending at the time; it is a present perfect tense and envisages that proceedings must be pending as on the date on which the 2013 Act came into force. It does not apply to concluded proceedings before the Collector after which it becomes functus officio. Section 24 of the 2013 Act, does not confer benefit in the concluded proceedings, of which legality if questioned has to be seen in the appropriate proceedings. It is only in the pending proceedings where award has been passed and possession has not been taken nor compensation has been paid, it is applicable. There is no lapse in case possession has been taken, but amount has not been deposited with respect to majority of landholdings in a pending proceeding, higher compensation under the 2013 Act would follow under the proviso to Section 24(2). Thus, the provision is not applicable to any other case in which higher compensation has been sought by way of seeking a reference under the 1894 Act or where the validity of the acquisition proceedings have been questioned, though they have been concluded. Such case has to be decided on their own merits and the provisions of Section 24(2) are not applicable to such cases.

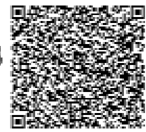


246. Section 16 of the 1894 Act provided that possession of land may be taken by the State Government after passing of an award and thereupon land vest free from all encumbrances in the State Government. Similar are the provisions made in the case of urgency in Section 17(1). The word "possession" has been used in the 1894 Act, whereas in Section 24(2) of the 2013 Act, the expression "physical possession" is used. It is submitted that drawing of panchnama for taking over the possession is not enough when the actual physical possession remained with the landowner and Section 24(2) requires actual physical possession to be taken, not the possession in any other form. When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. The act of vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances.

xxx

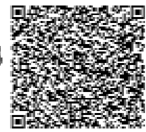
272. The decision in Velaxan Kumar [Velaxan Kumar v. Union of India, (2015) 4 SCC 325] cannot be said to be laying down the law correctly. The Court considered the photographs also to hold that the possession was not taken. Photographs cannot evidence as to whether possession was taken or not. Drawing of a panchnama is an accepted mode of taking possession. Even after re-entry, a photograph can be taken; equally, it can be taken after committing trespass. Such documents cannot prevail over the established mode of proving whether possession is taken, of lands. <u>Photographs can be of little use, much less can they be a proof of possession. A person may re-enter for a short period or only to have photograph</u>. That would not impinge adversely on the proceedings of taking possession by drawing panchnama, which has been a rarely recognised and settled mode of taking possession.

*273**.** In the decision in Raghbir Singh Sehrawat v. State of Haryana [Raghbir Singh Sehrawat v. State of Haryana, (2012) 1 SCC 792] , the observation made was that it is not possible to take the possession of entire land in a day on which the award was declared, cannot be accepted as laying down the law correctly and the same is contrary to a large number of precedents. The decision in State of M.P. v. Narmada Bachao Andolan [State of M.P. v. Narmada Bachao Andolan, (2011) 7 SCC 639], is confined to particular facts of the case. The Commissioner was appointed to find out possession on the spot. DVDs and CDs were seen to hold that the landowners were in possession. The District Judge, Indore, recorded the statements of the tenure-holder. We do not approve the method of determining the possession by appointment of Commissioner or by DVDs and CDs as an acceptable mode of proving taking of possession. The drawing of panchnama contemporaneously*



> *is sufficient and it is not open to a Court Commissioner to determine the factum of possession within the purview of Order 27 Rule 9 CPC. Whether possession has been taken, or not, is not a matter that a court appointed Commissioner cannot opine. <u>However, drawing of panchnama by itself is enough and is a proof of the fact that possession has been taken</u>.*
>
> *274. It was submitted on behalf of landowners that under Section 24 the expression used is not possession but physical possession. In our opinion, under the 1894 Act when possession is taken after award is passed under Section 16 or under Section 17 before the passing of the award, land absolutely vests in the State on drawing of panchnama of taking possession, which is the mode of taking possession. Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner. When the land is vacant and is lying open, it is presumed to be that of the owner by this Court as held in Kashi Bai v. Sudha Rani Ghose [AIR 1958 SC 434]. <u>Mere re-entry on government land once it is acquired and vests absolutely in the State (under the 1894 Act) does not confer any right to it and Section 24(2) does not have the effect of divesting the land once it vests in the State</u>.*
>
> *Xxx"*
>
> *[Emphasis supplied]*

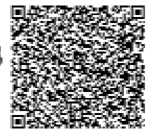
25. Furthermore, it is well settled proposition of law that there is no vested right in the land owner to seek release of the acquired land under Section 101-A of the 2013 Act. It is only a liberty granted to the State to release the land if found unviable/unsustainable. A beneficial reference may be made to the Apex Court judgment passed in **Civil Appeal No.16421 of 2021** "***Ram Swaroop (dead) through LRs and another v. State of Haryana and others***" arising out of SLP (Civil) No.16421 of 2021. The Apex Court clarified that Section 101-A did not give a vested right to the land owner to seek de-notification. It is not for the Court to sit in appeal over the opinion of the competent authority which had to ensure effective town planning and the issue of requirement of land, which stood vested once the award was passed. The claim could not be sustained only on the ground of possession,

since the petitioners continued to be in unauthorized possession once the award was passed. The relevant observations are as follows:

> *"8. Section 101-A of 2013 Act (as inserted in State of Haryana) gives liberty to the State Government to de-notify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the landowner due to such acquisition. Section 101-A is an enabling provision with the State Government to de-notify the land vested with State if it finds that any public purpose for which land was acquired under the Land Acquisition Act, 1894 becomes unviable or non-essential. In other words, the power is with the State Government on its satisfaction that the land acquired has become unviable or non-essential. No landowner has a vested right to assert that the land acquired has become unviable or non-essential mainly because the landowner continued to be in possession by virtue of an interim order passed by the High Court.*
>
> *Xxx*
>
> *11. The claim of the appellants for release of land on account of Section 24 (2) had been rejected by the State Government on 12.09.2016. The writ petition against the said order stands dismissed on 12.10.2020. Thus, the present appeal is merely an attempt to continue to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development and utilization of residential, commercial and institutional area, Sector-51, Gurgaon (now Gurugram). This Court in Raghubir Singh has held that Section 101-A does not give a vested right to the landowner to seek denotification or even that upon denotification, the land in question must return to the erstwhile owners only. The state Government is at liberty to pass such order other than release of land in favour of the landowners.*
> *xxx"*

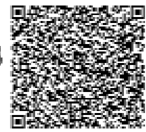
26. Therefore, on merits the petitioner cannot seek release of the disputed land once the State has filed an affidavit with regard to viability essentiality and utilization of the said land. As per the approved layout plan of Sector-29, Pinjore, Panchkula, being Annexure R-2 of the reply filed on behalf of the State and not controverted by the petitioner by filing a rejoinder, the land in question is essential for planning of 60 metres wide road (NH-5), 30 metres wide green belt along with national highway and 24



metres wide internal service road of Sector-29, Pinjore-Kalka Urban Complex and being an integral part of the planning, the said land stands utilized.

27. The *lis* of the petitioners is also hit by the principles of delay, acquiescence and laches. This Court is of the opinion that the delay/laches on the part of approaching the Court for the first time in 2018 after the Award was passed in March, 2008 along with 03 years' delay in filing of the representation under Section 101-A of the 2013 Act, is fatal to the petitioner's claim. The concepts of delay, laches and acquiescence has been succinctly explained by the Apex Court in ***Union of India v. N. Murugesan***, reported in *(2022) 2 SCC 24*. The relevant extract thereof is reproduced hereinafter:

> *"xxx*
>
> ***Delay, laches and acquiescence***
>
> *20**.** The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the Court.*
>
> ***Laches***
>
> ***21.*** *The word "laches" is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act*



which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

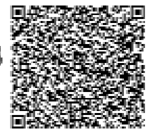
22. *Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.*

23. *A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.*

Acquiescence

24. *We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.*

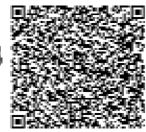
25. *Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may*



> *become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.*
>
> ***xxx"***

28. In ***Brijesh Kumar and others v. State of Haryana and Others,*** *SLP (Civil) No.6609-13 of 2014* reported in *(2014) 11 SCC 351,* the petitioners challenged the awarded compensation under Section 18 of the Land Acquisition Act, 1894, after a period of 10 years, 02 Months and 29 days. The High Court had refused to condone the delay in spite of the fact that the other land owners, who had preferred the appeals in time, were granted higher compensation. While dismissing the appeal, the Hon'ble Supreme Court made the following observations:

> *"xxx*
>
> *7. The Privy Council in General Accident Fire and Life Assurance Corp. Ltd. v. Janmahomed Abdul Rahim, relied upon the writings of Mr Mitra in Tagore Law Lectures, 1932 wherein it has been said that:*
>
> *A law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on equitable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognized by law.*
>
> *Xxx*
>
> *11.* ***It is also a well-settled principle of law that if some person has taken a relief approaching the court just or immediately after the cause of action had arisen, other persons cannot take benefit thereof approaching the court at a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.***
>
> *12. In State of Karnataka v. S.M. Kotrayya this court rejected the contention that a petition should be considered ignoring the delay and laches on the ground that he filed the petition just after coming to know of the relief granted by the court in a similar case as the same cannot furnish a proper explanation for delay and laches. The Court observed that such*

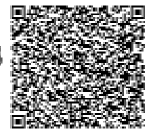


> *a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches.*
>
> *xxx"*
>
> *[Emphasis supplied]*

29. In ***Mewa Ram (deceased) by his LRs and others v. State of Haryana through the Land Acquisition Collector, Gurgaon***, reported in *1986 (4) SCC 151*, the Hon'ble Apex Court dismissed the Special Leave Petitions on the ground that the petitioners could not plead their own laches, as a sufficient ground for condonation of delay. It held that the time stipulated for re-determination of the awarded compensation under Section 28-A should be adhered to, as any other view taken by the Courts would lead to disastrous consequences, not intended by the legislature. Therefore, the following conclusion was arrived at:

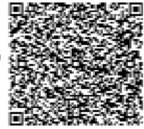
> *"xxx*
>
> *7. There is no reason for us to grant special leave in these cases which are hopelessly barred by time and there is no justification for condonation of inordinate delay.*
>
> *8. The special leave petitions are accordingly dismissed with costs."*

30. In a recent judgment passed in ***Union of India and another v. Jahangir Byramji Jeejeebhoy*** *(D) SLP (Civil) No. 21096 of 2019* reported in *2024 SCC OnLine SC 489* , the Hon'ble Apex Court refused to condone the delay of 12 years and 158 days in filing of the restoration application before the High Court. The High Court had refused to entertain an application filed by the appellants for exercise of its jurisdiction under Article 227 of the Constitution of India for condoning the delay of 12 years and 158 days, when the same was dismissed for non-prosecution. The Apex Court categorically made the following findings:-

> *"xxx*
>
> *24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.*
>
> *25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.*
>
> *26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.*
>
> *27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.*
>
> *xxx"*

31. Pursuant to the above mentioned discussion, this Court has no hesitation to hold that the present writ petition is a frivolous attempt to re-



open the issues which have already been adjudicated upon by a competent Court of law and is an abuse of process of law.

32. Accordingly, the writ petitions, being CWP No.24593 of 2025 *Deepak Kumar @ Deepak Jerath v. State of Haryana and others,* CWP No.25344 of 2025 *Savita Garg v. State of Haryana and others* and CWP No.25346 of 2025 *Mohinder Kumar Garg v. State of Haryana and others*, are **dismissed**, not only being hit by the principles of *res judicata,* acquiescence and waiver but also on the substantive interpretation of Section 101A of the 2013 Act, especially keeping in mind the fact that the land already stands utilised.

33. Connected application(s), if any, shall also stand disposed of accordingly.

(DEEPAK SIBAL)
JUDGE

(LAPITA BANERJI)
JUDGE

NOVEMBER 20, 2025
shalini

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No