

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

Writ Petition Nos. 27043, 22654, 22682, 22879, 23081, 23092, 23102, 23117, 23123, 23399, 23430, 24785, 24904, 24908, 31749 of 2014

Between:

1.P.Ravindranath Reddy, S/o. Gurivi reddy, Aged about 52 years, R/o Mangampet Village, Obulavaripalli Mandal, Y.S.R. District and Others

...Petitioner(s)

And

1.The AP Mineral Development Corporation Ltd, Represented by its Vice Chairman Cum Managing Director, 3rd Floor, HMWSSB Premises, Khairatabad, Hyderabad and Others

...Respondent(s):

DATE OF JUDGMENT PRONOUNCED: **05.03.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

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|--|----------|
| 1. Whether Reporters of Local Newspapers may be allowed to see the judgment? | Yes / No |
| 2. Whether the copies of judgment may be marked to Law Reporters / Journals? | Yes / No |
| 3. Whether His Lordship wish to see the fair copy of the Judgment? | Yes / No |

GANNAMANENI RAMAKRISHNA PRASAD, J

*** THE HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

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...Respondent(s):

! Counsel for Petitioner : Sri L.J. Veera Reddy, learned Counsel for the Writ Petitioners.

^ Counsel for Respondents : Sri N. Jeevan Kumar, learned Counsel for the Respondents

< Gist:

> Head Note:

? Cases referred:

(2014) 3 SCC 183

(2020) 8 SCC 129

(2017) 13 SCC 474

(2013) 11 SCC 531

S.L.P.(C) No.10490 of 2022

2023 SCC OnLine SC 396

APHC010781412014



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3328]

THURSDAY, THE FIFTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

**Writ Petition Nos. 27043, 22654, 22682, 22879, 23081, 23092, 23102, 23117,
23123, 23399, 23430, 24785, 24904, 24908, 31749 of 2014**

COMMON ORDER:

Heard Sri L.J. Veera Reddy, learned Counsel for the Writ Petitioners and Sri N. Jeevan Kumar, learned Counsel for the Respondents.

2. Common facts and common issues are involved in the present batch of Writ Petitions. Therefore, for the purpose of narration of facts, the facts mentioned in W.P.No.27043 of 2014 are referred to in this Order.

3. The Prayer in Writ Petition No.27043 of 2014 is as follows:

"It is therefore prayed that this Hon'ble High Court may be pleased, to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents particularly 3rd respondent in directing the petitioner to vacate and handover the possession of land of 0.54 Acres in Sy. No. 39/10 of Mangampet Village, Obulavaripalli Mandal, Y.S.R.District vide notice under Ref. No. APMDC/LA/StructuresNotice/ dated 10.12.2013 though award is dated 04.09.2002 as illegal, unjust, arbitrary, without jurisdiction and against statutory provisions including Sec 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and resettlement Act, 2013 and consequently set-

aside the notice issued by the 3rd respondent under Ref. No. APMDC/LA/Structures/Notice/ dated 10.12.2013 and pass such other order or orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case."

4. The above Prayer would indicate that the Writ Petitioner has received the Impugned Notice issued by the Andhra Pradesh Mineral Development Corporation Limited (APMDC) (Respondent No.1), bearing Ref. No. APMDC/LA/Structures/Notice dated 10.12.2013 (Ex.P.1). The Writ Petitioners in the other Writ Petitions have also received similar Notices, which have been challenged in the present batch of Writ Petitions.

Facts in Writ Petition No.27043 of 2014:-

5. The facts that emerge in W.P.No.27043 of 2014 are that the father of the Writ Petitioner possessed patta land of an extent of Ac.0.54 cents in Sy. No. 39/10 of Mangampet Village, Obulavaripalli Mandal, Y.S.R. District; that the father of the Writ Petitioner also possessed a house in the same location; that at the behest of Respondent No.1, the Land Acquisition Officer (Respondent No. 2) has initiated Land Acquisition Proceedings under The Land Acquisition Act, 1894 in the year 2003; that the land was sought to be acquired for the purpose of mining 'barytes' by Respondent No.1; that an extent of Ac.0.54 cents and the house belonging to the father of the Writ Petitioner were taken over by Respondent No.2 in the year 2012 itself; that on 04.09.2002, Award No.H.88/2001 was passed, thereby fixing compensation at the rate of Rs.450 per each cent, which was paid to the father of the Writ Petitioner; that the father of the Writ Petitioner had received the compensation under protest; that despite the fact that the land was taken long ago, the Writ Petitioner would contend that he and the other Writ Petitioners in the present batch of Writ Petitions were never dispossessed of the land and continued to carry on agricultural activities in the

acquired land; and that the Writ Petitioner in W.P.No.27043 of 2014 would contend that he has been raising paddy crop in the subject land.

6. The facts in this Writ Petition would further indicate that Respondent Nos.1 and 3 issued the Impugned Notice bearing Ref. No. APMDC/LA/Structures/Notice/ dated 10.12.2013 (Ex.P.1), directing the Writ Petitioners to vacate the site on or before July 2014; that since no action was taken from the date of issuance of the Impugned Notice on 10.12.2013 till July 2014, the Writ Petitioners continued to enjoy the subject land; and that in the month of August 2014, when Respondent Nos.1 and 3 insisted on handing over possession of the land, the Writ Petitioners had faced the threat of dispossession by police force. Therefore, the Writ Petitioners in the present batch of Writ Petitions have approached this Court by filing the present batch of Writ Petitions.

7. Vide Order dated 12.09.2014, the learned Single Judge of this Court in W.P.M.P.No.33814 of 2014 in W.P.No.27043 of 2014 was pleased to pass the following Interim Order:

“WPMP.No.33814 of 2014

It is submitted by the learned counsel for the petitioner that this Court in similar circumstances granted interim order dated 08.08.2014 in WPMP.No.28410 of 2014 in W.P.No.22651 of 2014 and the same is not disputed by the learned Standing counsel for the respondents.

Since it is stated that the petitioner is in physical possession of the acquired land, in spite of an award having been passed on 04.09.2002, the acquisition proceedings would lapse. Therefore, the respondents are not entitled to dispossess the petitioner from the land under his occupation.

Therefore, there shall be interim direction as prayed for.”

8. Similar Interim Orders were obtained by the other Writ Petitioners. As it can be seen from the above extract of the Interim Order dated 12.09.2014 that the learned Single Judge has passed the Interim Order by following another

Interim Order passed in W.P.M.P.No.28410 of 2014 in W.P.No.22516 of 2014. This W.P.No.22516 of 2014 is still pending on the file of this Court.

CONTENTIONS OF THE WRIT PETITIONERS:-

9. The Writ Petitioners contend that even though the Award was passed on 04.09.2002 and compensation was received under protest, neither Respondent No.2 nor Respondent Nos.1 and 3 have ever dispossessed the Writ Petitioners from the said land; that therefore, they continued to carry-on agricultural activities until the Impugned Notices were issued. It is further contended that the Writ Petitioners have been in possession of the said land for more than 12 years after the passing of the Award, and therefore the Official Respondent Nos.1 and 3 cannot now take forcible possession from them.

10. It is also contended that the only method known to Law is to acquire the land afresh by invoking the provisions of ***The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)*** and pay the compensation once again. It is also contended that, in view of the long passage of time, the earlier Proceedings would lapse.

11. The Writ Petitioners have placed reliance on Section 24(2) of Act 30 of 2013. The said Provision is usefully extracted hereunder:

Section 24 of Act 30 of 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."

CONTENTIONS OF RESPONDENT NOS.1 AND 3 - APMDC:-

12. The Andhra Pradesh Mineral Development Corporation Limited (Respondent No1) has filed Counter-Affidavit on 28.11.2014 along with Interlocutory Application bearing W.V.M.P.No.3700 of 2014 in W.P.M.P.No.33814 of 2014 in W.P.No.27043 of 2014, seeking to vacate the Interim Order dated 12.09.2014.

13. It is contended by Respondent Nos.1 & 3 that the said land not only stood acquired but possession was also taken long time ago by invoking ***The Land Acquisition Act, 1894*** vide Proceedings of the Mandal Revenue Officer, Rajampet dated 19.03.2005; that Mutation was also carried out in the Revenue Records to this effect; that once possession was taken by Respondent No.1, the question of the Writ Petitioners being in possession does not arise; that as per the Award dated 04.09.2002, the father of the Writ Petitioner in W.P.No.27043 of 2014 and all others have received compensation for the subject land at the rate

of Rs.47,450/- per acre; that all the other entitlements and the benefits as per the Statute were also paid to the Writ Petitioners.

14. It is further contended in the Counter-Affidavit that, as per Regulation 164(1)(b) of the ***Metalliferous Mines Regulations, 1961***, the Corporation (Respondent No.1) is required to maintain a 300-meter buffer-zone around the mining site free from any activity whenever mining is carried out in the contiguous area; that for the purpose of maintaining the buffer-zone, open area around the mining operations is maintained; and that certain third parties took undue advantage of this vacant site and on a stray basis, they have made some encroachments, and they happen to be the same persons for whom compensation has already been paid as per the Awards.

15. It is further contended by Respondent Nos.1 and 3 that the Writ Petitioners have been paid compensation way back on 04.09.2002 as per the Provisions of the Land Acquisition Act, 1894 and therefore initiating fresh Land Acquisition Proceedings under Act 30 of 2013 does not arise, and the said Act 30 of 2013 has no application to the facts of this case at all.

16. It was also contended that, the buffer-zone is required to be kept free from habitation and public movement, as the area around the mining area is designated as 'danger zone', and there is a likelihood of impact of mining activities in the periphery. These norms have been followed by Respondent No.1 Corporation as per the rules and regulations issued by the DGMS (Mines Safety).

17. It is also contended that, taking undue advantage of the 300 meters of the buffer-zone, certain third parties, including the Writ Petitioners herein, occupied the area towards the end of the year 2013 and the beginning of the year 2014, for which Respondent Nos.1 and 3 have initiated the process of eviction by following due process of law.

18. Along with the Counter-Affidavit, the Respondents have placed on record Annexure Nos.1 to 3 to establish that the persons who have been dispossessed under the Land Acquisition Act not only received compensation but also other rehabilitation benefits like confirmation of job for one person in the family and a site for construction of house. It is also submitted that Rs.1,00,000/- per family was paid long ago to the affected persons to enable them to build a house. It is contended that, in terms of the Award passed by the Land Acquisition Officer, Respondent Nos.1 and 3 have implemented the Rehabilitation and Resettlement Package (R&R Package). The Respondents have also satisfied the 'charter of demands' submitted by the Claimants, pursuant to which the R&R Package was conceded in favour of the Claimants and their families who lost their lands.

19. It is pertinent to mention that the Writ Petitioners have neither denied nor have they rebutted the averments in the Counter Affidavit by filing a Rejoinder.

Analysis:

20. The admitted facts in this case are that Barytes Mining was sought to be carried out in the land situated around Mangampet Village, Obulavaripalli Mandal, Y.S.R. District for the purpose of mining Barytes. For this purpose, the Land Acquisition Proceedings were initiated under the ***Land Acquisition Act, 1894*** in the year 2003. Possessions were taken by the Mandal Revenue Officer, Rajampet, vide Proceedings dated 19.03.2005 and the acquired land was handed over to Respondent Nos.1 and 3. It is also an admitted fact that Mutation was carried out in the Revenue Records as regards the land that stood vested in Respondent No.1.

21. It is also an admitted fact that compensation was paid as per the Award along with other emoluments and benefits. In addition to this, Respondent No.1

has also adhered to the R&R Package conceived by the Government at that point of time.

22. It transpires from the facts and material on record that the Writ Petitioners have not been able to produce any material to show that possession was never taken from them and that they continued to enjoy the same land for more than 12 years after the Award has been passed. Even assuming that the actual physical possession of land remained with the Writ Petitioners from 2003 to 2014, it would not confer any legally enforceable right on the Writ Petitioners because they all have received the compensation. Even this assumption as regards physical possession of land is not required to be gone into in this case, in the light of the fact that the Respondent Nos.1 and 3 have specifically averred in the Counter Affidavit that the Mandal Revenue Officer of Rajampet has taken physical possession of the land from the Claimants (Writ Petitioners here) vide Proceedings dated 19.03.2005 and the mutation was also effected in this regard. The Respondent Nos.1 and 3 have also averred that the Writ Petitioners have trespassed into the buffer-zone in the year 2013, for which the Respondent No.3 had issued Impugned Notice for eviction in December-2013. The averment of the Respondents that possession was taken over on 19.03.2005 and mutation was effected and that the Writ Petitioners have trespassed into the buffer-zone during the end of the year 2013 have not been either denied or rebutted by the Writ Petitioners by filing a Rejoinder to the Counter Affidavit. In this view of the matter, this Court would safely deem it that the Writ Petitioners do not have a semblance of any right to stay in possession of the acquired property.

23. Admittedly, the Impugned Notice was issued in the month of December 2013 to all the Writ Petitioners, directing them to vacate, failing which they would be evicted forcefully. The Interim Order passed by this Court on 12.09.2014 would indicate that the learned Single Judge proceeded on the premise that,

after acquisition of the land, if the Claimants continued to be in peaceful possession of the land despite the Award having been passed, and therefore the earlier Acquisition Proceedings would lapse.

24. The Writ Petitioners have placed reliance on the Judgment rendered by the Hon'ble Apex Court in ***Pune Municipal Corporation and Another v. Harakchand Misirimal Solanki and Others*** : (2014) 3 SCC 183, wherein the Hon'ble Apex Court interpreted Section 24(2) of Act 30 of 2013, as set out in Paragraph Nos.11 and 19:

“11. Section 24(2) also begins with non obstante clause. This provision has overriding effect over Section 24(1). Section 24(2) enacts that in relation to the land acquisition proceedings initiated under the 1894 Act, where an award has been made five years or more prior to the commencement of the 2013 Act and either of the two contingencies is satisfied viz. (i) physical possession of the land has not been taken, or (ii) the compensation has not been paid; such acquisition proceedings shall be deemed to have lapsed. On the lapse of such acquisition proceedings, if the appropriate Government still chooses to acquire the land which was the subject-matter of acquisition under the 1894 Act then it has to initiate the proceedings afresh under the 2013 Act. The proviso appended to Section 24(2) deals with a situation where in respect of the acquisition initiated under the 1894 Act an award has been made and compensation in respect of a majority of landholdings has not been deposited in the account of the beneficiaries then all the beneficiaries specified in the Section 4 notification become entitled to compensation under the 2013 Act.

12. XXXX

13. XXXX

14. XXXX

15. XXXX

16. XXXX

17. XXXX

18. XXXX

19. Now, this is admitted position that award was made on 31-1-2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs 27 crores) was deposited in the Government treasury. Can it be said that deposit of the amount of compensation in the Government treasury is equivalent to the amount of

compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Agnelo Santimano Fernandes [Ivo Agnelo Santimano Fernandes v. State of Goa, (2011) 11 SCC 506 : (2011) 4 SCC (Civ) 268] , relying upon the earlier decision in Prem Nath Kapur [Prem Nath Kapur v. National Fertilizers Corpn. of India Ltd., (1996) 2 SCC 71] , has held that the deposit of the amount of the compensation in the State's revenue account is of no avail and the liability of the State to pay interest subsists till the amount has not been deposited in court.”

25. While that was the position of law as settled by the Hon'ble Apex Court vide Judgment dated 24.01.2014 in the **Pune Municipal Corporation** case, the same legal position continued and ruled the field until the issue was referred to a Constitution Bench by the Hon'ble Apex Court in **Indore Development Authority v. Manoharlal and Others** : (2020) 8 SCC 129.

26. In the case of **Indore Development Authority v. Manoharlal and Others** : (2020) 8 SCC 129, the Constitution Bench of the Hon'ble Apex Court had expressly overruled the dictum of the Hon'ble Apex Court referred to in the **Pune Municipal Corporation** case on 06.03.2020. Therefore, it has to be held that the proposition of law laid down in the **Pune Municipal Corporation** case is no more a good law. The relevant portion of the dictum rendered by the Constitution Bench in the **Indore Development Authority** case in Para Nos.365 to 367 is usefully extracted hereunder:

“365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353 : (2015) 2 SCC (Civ) 298] cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra

[Indore Development Authority v. Shailendra, (2018) 3 SCC 412 : (2018) 2 SCC (Civ) 426] , the aspect with respect to the proviso to Section 24(2) and whether “or” has to be read as “nor” or as “and” was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.

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

366.1. *Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.*

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

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

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

366.5. *In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open*

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

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

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

366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

367. Let the matters be placed before appropriate Bench for consideration on merits."

(emphasis supplied)

27. In the light of the clear verdict as above, the contention of the Writ Petitioners that despite the passing of the Award and despite receipt of compensation they still have a right of ownership or atleast right of possession,

and therefore the only option left open to the State is to re-acquire the already acquired land under Act 30 of 2013 is completely misplaced.

28. The proposition of law in this regard has been laid down by the Hon'ble Apex Court in ***Ram Singh and Others v. Jammu Development Authority and Others*** : (2017) 13 SCC 474. The Hon'ble Apex Court held in Para Nos. 25 to 28 as under:

“25. In our considered opinion, the filing of the writ petition by the appellants was wholly misconceived so was the reliefs claimed therein. It is not in dispute that the land in question was the subject-matter of acquisition proceedings and eventually resulted in passing an award for payment of compensation. It is also not in dispute that compensation was deposited by the State. In these circumstances, even if the writ petitioners asserted their so-called possession over the land in question subsequent to completion of the acquisition proceedings, their possession on the land was not legal possession in the eye of the law but it was an illegal and unauthorised possession over the acquired land. The State has filed documentary evidence, which in clear terms, establish that the State took possession of the entire acquired land including the land in question on 16-4-1976. It was done as per the law laid down in Balmokand Khatri [Balmokand Khatri Educational & Industrial Trust v. State of Punjab, (1996) 4 SCC 212 : AIR 1996 SC 1239] and, in our view, the Division Bench rightly relied on the law.

26. In these circumstances, in our view, if anyone claimed to have entered in possession of the acquired land including the writ petitioners, their possession could neither be regarded as being legal nor could it create any right to enable the writ petitioners to claim back such land or to retain it as owners. The State/JDA alone was deemed to be continued to remain in its legal possession in whom the title of the land stood vested by virtue of the provisions of the State Land Acquisition Act. The writ petitioners could, therefore, neither claim nor exercise any of their so-called rights to re-enter on the land for want of any title and interest in them.

27. In our considered view, the only right or relief, which the writ petitioners were entitled to exercise/claim from/against

the State/JDA was to ask the State to determine and pay compensation for the loss of their land which, as mentioned above, was already found determined by the Collector by an award passed in relation to the acquired land. If the writ petitioners were not satisfied with the determination of compensation made by the Collector, their remedy lay in pursuing the matter for redetermination of compensation by the Reference Court and then by the High Court in appeal. We are, however, not concerned with this issue because it is not the subject-matter of this appeal and nor the writ petitioners questioned the legality or/and correctness of the acquisition proceedings. Even otherwise the writ petitioners (appellants) could not be allowed to challenge the acquisition proceedings after a lapse of almost 3 decades in these proceedings.

28. It is, however, stated that the State/JDA has already deposited the compensation amount determined by the Collector pursuant to the award long back. If that be so, we permit the appellants herein (writ petitioners/landowners) to withdraw the said amount, if not already withdrawn or/and accepted.”

(emphasis supplied)

29. The above extract would clearly indicate that the facts of the case of **Ram Singh and Others** are identical to the facts of the case on hand and would therefore squarely apply against the claim of the Writ Petitioners herein.

30. In **State of Haryana v. Sunder Lal**: (2013) 11 SCC 531, the Hon’ble Apex Court held in Para Nos.13 to 20 as under:

13. In Balmokand Khatri Educational & Industrial Trust v. State of Punjab [Balmokand Khatri Educational & Industrial Trust v. State of Punjab, (1996) 4 SCC 212] , it has been observed that the normal rule of taking possession is drafting the panchnama in the presence of panchas. This Court observed: (SCC p. 215, paras 4-5)

*“4.....
..... It is now well-settled legal position that it is difficult to take physical possession of the land under compulsory acquisition. The normal mode of taking possession is drafting the panchnama in the presence of panchas and taking possession and giving delivery*

to the beneficiaries is the accepted mode of taking possession of the land. Subsequent thereto, the retention of possession would tantamount only to illegal or unlawful possession.

5. Under these circumstances, merely because the appellant retained possession of the acquired land, the acquisition cannot be said to be bad in law.....

.....”

14. In P.K. Kalburqi v. State of Karnataka [P.K. Kalburqi v. State of Karnataka, (2005) 12 SCC 489] , this Court held that if the land was vacant and unoccupied, taking symbolical possession would be enough.

15. In Sita Ram Bhandar Society v. State (NCT of Delhi) [Sita Ram Bhandar Society v. State (NCT of Delhi), (2009) 10 SCC 501 : (2009) 4 SCC (Civ) 268] , it was observed that mode of taking possession is by way of drawing of panchnama. Similar view has been reiterated in Omprakash Verma v. State of A.P. [Omprakash Verma v. State of A.P., (2010) 13 SCC 158 : (2010) 4 SCC (Civ) 823]

16. In M. Venkatesh v. BDA [M. Venkatesh v. BDA, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387] , again it was reiterated that mode of taking possession is by drawing a panchnama. It is further held that the mode of taking possession adopted by BDA was permissible.

17. In State of M.P. v. Narmada Bachao Andolan [State of M.P. v. Narmada Bachao Andolan, (2011) 7 SCC 639 : (2011) 3 SCC (Civ) 875] , this Court held that it would depend upon the facts of the individual case that whether possession has been taken or not. We are of the considered opinion that possession has been taken as is apparent from the memorandum dated 21-7-2003 placed on record.

18. The learned counsel for the respondent has submitted that there were two rooms in existence admeasuring 15' × 12' and 18' × 12' with boundary wall. He has taken us to the site plan, in which, now 10 shops are shown, besides that there are three rooms, one kitchen and verandah. Thus, most of these structures have been erected subsequently. Even if there were two outhouses in existence at the time of issuance of notification under Section 4 of the Land Acquisition Act, 1894 in the shape of rooms admeasuring 15' × 12' and 18' × 12' and boundary wall, obviously it was not meant for the residential purposes, but meant for agricultural purposes. It appears that once possession had been taken after making a trespass upon the land, construction has been raised.

Most of these structures were not in existence as per the finding recorded by the High Court. Thus, the site plan rather than espousing the cause of the respondent, defeats the same. Once possession had been taken and compensation has been admittedly collected by the respondent, it was not open for him to apply for de-notification of land under Section 48 of the Land Acquisition Act, 1894 or for its release.

19. *The submission raised that land of two other incumbents has been released in 2006 and 2014, is of no avail. There is no concept of negative equality and the respondent cannot be permitted to take advantage of his wrong. The land had been acquired and thereafter the respondent has trespassed upon the land and has raised construction, in completely illegal manner. He is not entitled to protect it. Based on such encroachment, he is not entitled to release of the land.*

20. *It cannot be said that land acquired is unutilised land, as a matter of fact, lot of development has taken place as there is encroachment made, as such, land could not have been utilised and by making unwarranted interference by the High Court, the acquisition was ordered to be quashed. We are of the opinion that the prayer made by the respondent to apply for releasing the land as per the Notification dated 14-9-2018, cannot be entertained. The respondent cannot be given such a right as he has not come to the Court with clean hands. He is an encroacher and cannot be said to be entitled to any indulgence.*

(emphasis supplied)

31. The Hon'ble Apex Court in **Jai Prakash v. State of U.P. & Others** in S.L.P.(C) No.10490 of 2022 dated 10.06.2022, dismissed the SLP filed by the Claimants by holding as under:

“It is not in dispute that the land of the petitioner has been acquired, possession of the same has been taken over and the payment of compensation under the Land Acquisition Act, 1894 has been paid.

In that view of the matter, the petitioner has no right to occupy and/or continue with the possession, as after the acquisition, the land absolutely vests with the State Government.

The High Court has rightly refused to interfere and we are in complete agreement with the view taken by the High Court.

Therefore, we see no reason to interfere with the impugned order in exercise of our powers under Article 136 of the Constitution of India. The Special Leave Petition is, accordingly, dismissed.”

(emphasis supplied)

32. Following the decision of the Constitution Bench in ***Indore Development Authority*** case, the Hon’ble Supreme Court in the case of ***Land and Building Department Through Secretary and Another v. Attro Devi and Others*** : 2023 SCC OnLine SC 396, has reaffirmed the same.

CONCLUSION:

33. In the light of the above discussion, the reliance placed by the Writ Petitioners on the dictum of ***Pune Municipal Corporation*** case is misplaced and presently it is not a good law in the light of the fact that the said Judgement has been overruled by the Constitution Bench in ***Indore Development Authority v. Manoharlal and Others*** : (2020) 8 SCC 129.

34. In this view of the matter, this Court is of the opinion that the Writ Petition Nos. 27043, 22654, 22682, 22879, 23081, 23092, 23102, 23117, 23123, 23399, 23430, 24785, 24904, 24908, 31749 of 2014 are devoid of merit. Accordingly, the Writ Petitions are dismissed. No order as to costs.

35. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 05.03.2026
DSV/CHS

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HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

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23123, 23399, 23430, 24785, 24904, 24908, 31749 of 2014**

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