GOVERNMENT OF NCT OF DELHI & ANR. V. M/S BSK REALTORS LLP & ANR.

Citation: 2024 INSC 455

Date of Order:17th May 2024

3 Judge Bench: Justice Surya Kant, Justice Dipankar Datta, Justice Ujjal Bhuyan

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FACTS

M/s BSK Realtors initiated land acquisition proceedings before the High Court. The said petitions were allowed by the High Court vide order dated 11th January 2016 while relying on the judgement in the last of Pune Municipal Corporation and another v. Harakchand Misirimal Solanki and others, which held that if any one of the two ingredients of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is satisfied, the acquisition proceedings under challenge would deemed to have lapsed. The ingredients are, either the physical possession of the land was not taken, or the compensation was not paid.

The said order was challenged by DDA before this Hon'ble court where the Civil appeals were dismissed after the leave was granted vide order dated 31st August 2016.

The Hon'ble court vide order dated 6th March 2020 in Indore Development Authority v. ManoharLal and others, overturned the decision laid down in the case of Pune Municipal Corporation. it was held that land acquisition proceedings lapse only when the twin conditions laid down in Section 24(2) is satisfied.

Bayed on the first round of litigation, the cases were categorised into different groups.

i. Group A deal with 2 Miscellaneous Applications filed by authorities seeking recall of Supreme Court judgments dismissing earlier appeals.
ii. Group B.1 deals with 40 cases where Civil Appeals were dismissed in the first round, and new SLPs are pending.
iii. Group B.2 deals with 5 cases where Civil Appeals were allowed in the first round, and new SLPs are pending.
iv. Group C.1 deals with 1 case where SLPs were dismissed in the first round, new SLPs are pending, and the twin conditions for lapse are met.
v. Group C.2 & C.3 deals with 17 cases where SLPs were dismissed in the first round or are pending, but the twin conditions for lapse are not met.
vi. Group D deals with 16 Miscellaneous matters incorrectly tagged with the present batch.
vii. Group E deals with 32 cases involving allegations of fraud by landowners regarding subsequent sale transactions or title disputes.

ISSUE

1. Whether the dismissal of a civil appeal by one appellant operates as res judicata against another appellant in subsequent litigation?
2. Whether suppression of first-round litigation constitutes a material fact warranting dismissal?
3. Whether the doctrine of merger bars the entertainment of these civil appeals?
4. Whether previous determinations regarding subsequent purchasers' rights preclude reconsideration?

RULE

List of cases along with principle cited for

CASE	**PRINCIPLE**
Indore Development Authority v. Manoharlal and others, (2020) 8 SCC 129	Under Section 24(2), for acquisition proceedings to "lapse", both non-taking of possession and nonpayment of compensation must be proved. Mere non-payment alone, or mere non-possession alone, is not sufficient.
Pune Municipal Corporation and another v. Harakchand Misirimal Solanki and others, (2014) 3 SCC 183	The acquisition under the Land Acquisition Act, 1894 shall be deemed to have lapsed under Section 24(2) of the 2013 Act if the compensation has not been paid to the landowners or deposited in court, and that deposit in the government treasury does not amount to payment.
Govt (NCT) of Delhi v. Manav Dharam Trust and another, (2017) 6 SCC 751	Even a subsequent purchaser, assignee, or successor-in-interest of the original landowner has the locus standi to seek a declaration of lapse of acquisition proceedings under Section 24(2) of the 2013 Act, since such persons are "interested persons" within the meaning of the Act.
Shiv Kumar and another v. Union of India and others, (2019) 10 SCC 229	A subsequent purchaser of land after the issuance of a Section 4 notification under the Land Acquisition Act, 1894 has no locus standi to challenge the acquisition proceedings or to seek a declaration that such acquisition has lapsed under Section 24(2) of the 2013 Act.

<table>
<tr><td>Munni Bibi (since deceased) and another v. Tirloki Nath and others AIR 1931 PC 114</td><td>Three conditions for the application of res judicata between co-defendants:
“(1.) There, must be a conflict of interest between the defendants concerned; (2.) it must be necessary to decide this conflict in order to give the plaintiff the relief he claims; and (3.) the question between the defendants must have been finally decided.”</td></tr>
<tr><td>State of Gujarat and others v. M.P. Shah Charitable Trust and others, (1994) 3 SCC 552</td><td>For attracting the rule of res judicata between co-defendants- according to the terms in Section 11 of the Civil Procedure Code, it is necessary that there should have been some issue directly and substantially in controversy between them which has been heard and finally decided by the court.</td></tr>
<tr><td>Mathura Prasad Bajoo Jaiswal and others v. Dossibai N.B. Jeejeebhoy, (1970) 1 SCC 613</td><td>Where the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of that order under the rule of res judicata, for a rule of procedure cannot supersede the law of the land</td></tr>
<tr><td>S.J.S. Business Enterprises (P) Ltd. V. State of Bihar and others, (2004) 7 SCC 166</td><td rowspan="2">A fact suppressed must be material; that is, if it had not been suppressed, it would have influenced the merits of the case.</td></tr>
<tr><td>Arunima Baruah v. Union of India and others, (2007) 6 SCC 120</td></tr>
<tr><td>Kunhayammed and others. V. State of Kerala and another, (2000) 6 SCC 359</td><td>The doctrine of merger is not of universal or unlimited application and that the nature of jurisdiction exercised by the superior forum and the content or subject matter of challenge laid or which could have been laid shall have to be kept in view.</td></tr>
</table>

SUBMISSIONS

Appellants

***Res Judicata*, Merger, and prospective overruling**

The judgement in the case of ManoharLal is applicable from 1st January 2014 therefore *res judicata* will not apply on decisions before that of the law has been altered. Additionally, the mere presence of petitioner in second round who was respondent in first round does not attract the doctrine of *res judicata*.

The doctrine of merger is neither a doctrine of constitutional law nor a doctrine having statutory recognition therefore not universally applicable.

Subsequent purchasers contesting acquisition proceedings

Subsequent purchasers lack entitlement to assert the lapse of acquisition proceedings or claim the land if the original sale was void due to fraudulent activities by the landowner.

The right of subsequent purchasers was recognised in the case of Manav Dharma Trust, but it was overruled vide judgement in the case of Shiv Kumar and ManoharLal.

Landowners and affected parties

Merger

In the cases where this Hon'ble court granted leave and dismissed the appeal, the doctrine of merger will apply merging the judgement and order of the high court and this court even if the appeal is dismissed by a speaking order.

Res Judicata

Res judicata principles apply to the appeals, binding the acquiring authorities and beneficiary. The appellants' one-year timeframe to commence fresh acquisition proceedings has expired, closing the State's right to contest the Court's order.

Subsequent purchasers contesting acquisition proceedings

High Court decisions in Ranjana Bhatia and Sparsh Properties cases, upheld by Manav Dharam Trust, allow subsequent purchasers to declare vested landowner rights under Section 24(2). Therefore, the judgement in the case of Shiv Kumar requires reconsideration.

ANALYSIS

Res Judicata

The three conditions for applicability of *res judicata* ie., conflict of interest, necessity to decide and conflict finally decided, was laid down in case of ***Munni bibi***. Relying on the case of ***MP shah Charitable trust*** and ***Mathura Prasad Bajoo Jaiswal*** it was held that there must be a directly and substantially disputed issue which the court has heard and resolved, and res judicata does not apply where there has been a change in law, particularly in matters involving public interest.

The Court held that res judicata would not apply between co-respondents (GNCTD and DDA) in the present case as they did not have conflicting interests, nor was there any disputed issue between them that the court had adjudicated.

Suppression of material facts by appellants

The Hon'ble Court found no reason to dismiss the appeals solely based on the prior dismissal of appeals filed by other authorities, noting that such suppression must be material enough to affect the merits of the case as it was also held in cases of ***S.J.S Business Enterprises*** and ***Arunima Baruah***.

Merger

While acknowledging the settled principles of the merger doctrine as established in the case of ***Kunhayammed***, the Court recognised exceptions to this doctrine in the rarest of rare cases, particularly when exercising its extraordinary constitutional powers under Article 142 to do complete justice.

The Court emphasised the unique circumstances created by contradictory judicial pronouncements on Section 24(2) of the 2013 Act, which had led to discriminatory treatment of identically situated landowners. Some land parcels were deemed acquired while others were released, despite being part of the same acquisition proceedings. This inconsistency threatened public interest and infrastructure projects like metros, flyovers, schools, and hospitals.

Allegations of fraud committed by landowners

The Court addressed allegations that some landowners had committed fraud by suppressing subsequent sale transactions or title disputes. Referring to the case of ***Shiv Kumar***, which was approved by the Constitution Bench in ***Manoharlal***, the Court affirmed that subsequent purchasers of land (after Section 4(1) notification) lack standing to challenge acquisition proceedings.

For Group E cases involving such allegations, the Court ordered remand to the High Court for thorough fact-finding.

CONCLUSION

1. For Groups A and B.1: Exercising its power under Article 142, the Court extended the time limit for fresh acquisition proceedings by one year, dispensed with certain procedural requirements of the 2013 Act to expedite acquisition, and directed maintenance of status quo regarding possession and land use until completion of acquisition.
2. For Group B.2: The Court dismissed these SLPs as infructuous since the appeals had already been allowed.
3. For Group C.1: The Court applied the same directions as for Groups A and B.1, since both conditions for lapse under Section 24(2) were met.
4. For Groups C.2 and C.3: The Court allowed these appeals, set aside the High Court judgments, and upheld the land acquisitions under the 1894 Act, as the twin conditions for lapse were not met.
5. For Group E: The Court remanded these cases to the High Court for factual inquiry regarding fraud allegations, with directions to determine the rightful claimants for compensation.
6. For Group D: The Court ordered separate listing for these miscellaneous matters.

Precedent-

The Supreme Court held that technical doctrines like res judicata and merger cannot be applied mechanically to defeat substantial justice in land acquisition cases, and may be relaxed under Article 142 where larger public interest and completed public infrastructure projects are involved.