



2026:AHC-LKO:42899-DB

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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2466 of 2023

Lohia Developers (India) Pvt. Ltd. Thru. its Authorized Singnatory
Shri Rajesh Kumar Shrivastava

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy., Housing and Urban Planning Deptt.
Civil Sectt Lko. and 4 others

.....Respondent(s)

Counsel for Petitioner(s) : Gaurav Kumar Hasani, Abhinav
Nath Tripathi, Amrendra Nath
Tripathi, Vijay Nandan Mani
Tripathi

Counsel for Respondent(s) : C.S.C., Ratnesh Chandra

Judgment reserved on:27.05.2026

Judgment delivered on:03.07.2026

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE MANJIVE SHUKLA, J.**

(Per : Rajan Roy, J.)

1. Heard Shri Amrendra Nath Tripathi, learned Senior Counsel assisted by Shri Sanjeev Kumar Mishra, learned counsel for the petitioner, Shri Ratnesh Chandra, learned counsel for the Lucknow Development Authority and Ms. Isha Mittal, learned Additional Chief Standing Counsel for the State.

2. The petitioner herein seeks the following reliefs:-

“i) Issue writ, order or direction in the nature of Certiorari for quashing the impugned notification issued under Section 4(1) of the Land Acquisition Act, 1894 dated 27.12.2013 published on 04.01.2014 (Annexure No. 1) and impugned declaration under Section 6(1) of the Land Acquisition Act, 1894 dated 23.01.2015 (Annexure No. 2), with respect to the land of the Petitioner bearing Khasra No. 431P, admeasuring area 0.5020 hectare situated at Village – Aahmamau, Tehsil – Sarojni Nagar, District – Lucknow;

Or

Issue appropriate writ, order or direction to declare the acquisition of part of Khasra No. 431P admeasuring are 0.5020 situated at Village – Aahmamau, Tehsil – Sarojni Nagar, District – Lucknow, i.e. land of the Petitioner, stood as lapsed;

(ii) Issue writ, order or direction in the nature of Mandamus commanding the Respondents not to interfere with the possession of the Petitioner over the land in question bearing Khasra No. 431P, admeasuring are 0.5020 hectare situated at Village – Aahmamau, Tehsil – Sarojni Nagar, District – Lucknow, during the pendency of this writ petition.”

3. The petitioner purchased land measuring 0.5020 hectares forming part of Khasra No. 431P situated at Village– Aahmamau, Tehsil – Sarojni Nagar, District – Lucknow vide registered sale deed dated 05.02.2007 from the recorded tenure holders. A notification

dated 27.12.2013 for acquisition of the said land was published in Hindi daily newspaper Dainik Jagran on 02.01.2014 and in Hindi Newspaper Amar Ujala on 03.01.2014 under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act, 1894'). The said notification dated 27.12.2013 was then published in the Official Gazette of the Government of Uttar Pradesh on 04.01.2014. A public notice/munadi/announcement in respect of the aforementioned notification was published in the Official Gazette of the Government of U.P. on 06.02.2014 and munadi/announcement was accordingly carried out on the said date. A declaration under Section 6 read with Section 1 of the Act, 1894 was issued on 23.01.2015. Award in respect of the land in question was declared on 13.07.2016 which was amended on 02.12.2022. These facts are admitted to the opposite parties in their counter affidavits.

4. The total area of the land which was the subject matter of the aforesaid notifications measured 2.737 hectares including 0.720 hectares of land comprising Khasra No. 431-P.

5. The question which falls for our consideration is as to whether the land acquisition proceedings under the Act, 1894 had commenced prior to 01.01.2014 which is the date on which the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013') came into force thereby repealing the old Act, 1894 and also as to what is the application of saving clause contained in

Section 6 of the Act, 1897, if any, in this context; whether aforesaid notifications under the Act, 1894 were published after repeal of the said enactment by Section 114 of the Act, 2013 or not, if so, what are the consequences in law as to validity of acquisition proceedings held as a consequence thereof.

6. The submission of Shri Amrendra Nath Tripathi, learned Senior Counsel assisted by Shri Sanjeev Kumar Mishra, learned counsel for the petitioner was that the entire exercise of acquisition has been undertaken under a repealed enactment, therefore, it is void ab initio. The award was initially rendered in 2016 which was amended in 2022 based on the acquisition proceedings under a repealed enactment, therefore, none of it is sustainable.

7. It was also his submission that even on the basis of the repealed enactment the acquisition proceedings are not sustainable, firstly, because the timeline prescribed in Section 6 of the Act, 1894 was violated. Secondly, the award was rendered more than two years after the relevant notification, therefore, it was also hit by Section 11-A of the Old Act, 1894 which in any case stood repealed.

8. He invited our attention to averments made in Para 21 and 24 of writ petition specifically stating the physical possession of the land has not yet been taken from the petitioner nor compensation has been received, which according to him, have not been denied in counter affidavit of opposite party no. 4- Special Land Acquisition Officer nor of the Lucknow Development Authority.

9. Per contra Ms. Isha Mittal, learned Additional Chief Standing for the State tried to justify the impugned acquisition on the basis of the notification being dated 27.12.2013 and also a Government Order dated 13.07.2016.

10. Shri Ratnesh Chandra, learned counsel for Lucknow Development Authority submitted that the writ petition was delayed and as, the acquisition proceedings had been initiated way back in 2013/14 and we are now in 2026, therefore, this Court should decline to exercise its extraordinary jurisdiction in the matter. On the merits of issue he submitted that merely because notifications were published whether it be in the newspapers or the Official Gazette or the public notice was after 01.01.2014 did not mean that the acquisition proceedings had not been initiated prior to it, as, the proposal/exercise for acquisition had started much prior to 01.01.2014 and that is how the notification is also dated 27.12.2013, but, he could not deny the fact that the publication of the notification referred in Section 4(1) took place after 01.01.2014.

11. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013') was formulated by the Parliament and undisputedly came into force on 01.01.2014 by a Notification of the Central Government in the Official Gazette referable to Section 1(3) thereof. Section 114 of the Act, 2013 reads as under:-

“114. Repeal and saving.- (1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals.”

12. Apparently, the Act, 1894 stood repealed by the aforesaid Act subject to the saving clause contained in Section 6 of the General Clauses Act, 1897. Section 6 of the General Clauses Act, 1897 reads as under:-

“6. Effect of repeal.- Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not -

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or any thing duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

6-A. Repeal of Act making textual amendment in Act or Regulation.- *Where any [Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any [Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.”*

13. In this context, we may also refer to Section 24 of the Act, 2013 which deals with certain cases when land acquisition process under Act, 1894 shall be deemed to have lapsed. Section 24 of the Act, 2013 reads as under:-

“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 (1 of 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.”

14. It is only in Section 24(1) of the Act, 2013 that the word ‘**initiated**’ has been used by the Legislature in the context of initiation of land acquisition proceedings under the Act, 1894 otherwise the said word has not been used nor defined in the Act, 1894 nor for that matter in the Act, 2013.

15. According to Sub-section (1) of Section 24 of the Act, 2013- notwithstanding anything contained in the said Act, in any case of land acquisition proceedings ‘**initiated**’ under the Act, 1894, (a) where no award under Section 11 of the Act, 1894 has been made, then, all provisions of the Act, 2013 relating to the determination of compensation shall apply; or (b) where an award has been rendered under Section 11 of the Act, 1894, then such proceedings shall continue under the provisions of the said Land Acquisition Act i.e. Act, 1894, as if the said Act has not been repealed.

16. Sub-section (2) of Section 24 of the Act, 2013 came up for consideration before a Five Judges Bench of Hon’ble the Supreme Court in the case of **Indore Development Authority Vs. Manoharlal and Ors.** reported in **(2020) 8 SCC 129**, however, we

are not much concerned with Sub-section 2 of Section 24 of the Act, 2013.

17. Sub-section (1) of Section 24 of the Act, 2013 would be of relevance only to ascertain as to whether land acquisition proceedings were initiated under the Act, 1894 in the case at hand or not so as to consider as to how far, if at all, Section 24 of the Act, 2013 would apply and if it does not apply, then, what would be the consequence upon validity of the acquisition proceedings initiated under the Act, 1894, if it was done after 01.01.2014; whether it would be *ab initio void*.

18. In this context we have considered the scheme of the Act, 1894 to ascertain as to what is the point of initiation of acquisition proceedings under the said enactment in the light of various decisions on the subject. In this context we may refer to Part II of the Act, 1894, the heading 'Acquisition' and the sub-heading 'Preliminary Investigation'. Section 4 occurring in the said part reads as under:-

"4. Publication of preliminary notification and powers of officers thereupon.- (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication

and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification).

(2) Thereupon it shall be lawful for any officer, either, generally or specially authorised by such Government in this behalf, and for his servants and workmen,-

to enter upon and survey and take levels of any land in such locality;

to dig or bore in the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crops, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed Court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so."

19. On a bare reading of the aforesaid provision what comes out is that whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the

Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being referred to thereafter as the date of publication of the notification), meaning thereby, the date of last of the three notices/publications referred earlier would be the date of publication of the notification under Section 4(1) of the Act, 1894.

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

Section 4 of the Act, 1894, therefore, any preliminary investigation as to the investigation can be undertaken by any officer of the appropriate Government only after the date of publication of notification under Section 4(1) of the Act, 1894 which has to be last of the dates of such publication and the giving of public notice as referred therein. Prior to the aforesaid, it can not be said that the land acquisition proceedings have been initiated.

21. Thereafter, under Section 5 of the Act, 1894 the officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the district, and such decision shall be final.

22. Section 5-A of the Act, 1894 deals with objections to the acquisition of land or of any land in the locality and the procedure for hearing and disposal of such objections.

23. Section 6 of the Act, 1894 deals with declaration of intended acquisition. According to Sub-section (1) of Section 6 subject to the provisions of Part VII of the Act, 1894 when the appropriate Government is satisfied, after considering the report, if any, made under section 5-A sub-section (2), that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government

or of some other officer duly authorised to certify its orders, and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4 sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5-A sub-section (2). Other provisions are also contained in Section 6 which are not very relevant for our purposes.

24. The question as to when are land acquisition proceedings initiated under the Act, 1894, including the question as to whether such initiation is by a notification under Section 4(1) or on a declaration under Section 6 of the Act, 1894, has been considered in various decisions.

25. In *Indrapuri Griha Nirman Sahkari Samiti Ltd. Vs. State of Rajasthan* reported in **(1975) 4 SCC 296** a Constitution Bench of Hon'ble the Supreme Court held that land acquisition proceedings commence with the notification under Section 4 of the Act. Though, the Constitution Bench in the said case was considering the Rajasthan Land Acquisition Act, however, another Bench of Hon'ble the Supreme Court in the case of **Laxman Lal v. State of Rajasthan** reported in **(2013) 3 SCC 764** has held that Section 4 of the Rajasthan Land Acquisition Act is identical to Section 4 of the Act, 1894, just as Section 6 thereof is similar to Section 6 of the Act, 1894, therefore, the aforesaid declaration by the Constitution Bench in the context of Section 4 of the Rajasthan Land Acquisition Act

would apply on all its fours to the scheme of the Act, 1894 as has been held by a three Judges Bench of Hon'ble the Supreme Court in a case **(2023) 6 SCC 512; Haryana State Industrial and Infrastructure Development Corporation Ltd. and Ors. Vs. Deepak Aggarwal and Ors.** Para 17 and 18 of the judgment in the case of **Deepak Aggarwal** (supra) are quoted hereinbelow:-

“17. In Indrapuri Griha Nirman Sahakari Samiti case a Constitution Bench held thus: (SCC p. 297, para 12)

“12. Land acquisition proceedings commence with the notification under Section 4 of the Act.”

It is true that the Constitution Bench in Indrapur case was not considering the question whether it is issuance and publication of a notification under Section 4(1) of the LA Act or the declaration that the land is required for public purpose under Section 6 of the LA Act, that tantamounts to initiation or commencement of the land acquisition proceedings under the LA Act. In fact, the Constitution Bench was considering the challenge against the notifications under Sections 4 and 6 of the Rajasthan Land Acquisition Act, 1953. But then, a two-Judge Bench of this Court in Laxman Lal v. State of Rajasthan held that LA Act and Section 6 of

Rajasthan Land Acquisition Act is similar to Section 6 of the L.A. Act.

18. *Therefore, the declaration of the position of Section 4 of the LA Act by the Constitution of Bench in Indrapur case that land acquisition proceedings commence with the notification under Section 4 of the Act cannot be ignored neither on the ground that it was held so while considering the said provisions in the Rajasthan Land Acquisition Act nor on the ground that it was not made upon consideration of the question as to whether it is Section 4 or Section 6 of the LA Act that marks the point of initiation of land acquisition proceedings under the LA Act."*

26. In ***V.K.M. Kattha Industries (P) Ltd. Vs. State of Haryana*** reported in **(2013) 9 SCC 338** after considering the provisions of Sections 4, 5-A and 6 of the Act, 1894, a three Judges Bench of Hon'ble the Supreme Court held that among the above provisions, Section 4 of the Act empowers the appropriate Government to initiate proceedings for the acquisition of land. It was so held while considering the contention of the appellant that publication of notification under Section 4(1) of the Act, 1894 was not in accordance with the mandate provided in the statute and while looking into the scheme of the Act, 1894 for answering the same.

27. The Supreme Court of India in an earlier decision reported in ***AIR 1967 SC 1704; Khub Chand and Ors. Vs. State of Rajasthan and Ors.*** held that the notification/ public notice referred in Section 4 of the Act, 1894 was mandatory and that the provisions of a statute conferring power on the Government to compulsorily acquire lands have to be strictly construed. Noticing the language used in Section 4 Sub-section (1) of the Act, 1894 it held that the object underlying the said provision is obvious. Under Sub-section (2) of Section 4 of the Act, after such a notice was given as is referred in Sub-section (1) of Section 4, the officer authorised by the Government in that behalf could enter the land and interfere with the possession of the owner in the manner prescribed thereunder. The legislature thought that it was absolutely necessary that before such officer can enter the land of another, the owner thereof should have to clear notice of the intended entry which is obviously a reference to the notice under Sub-section (1) of Section 4.

28. It was further observed in ***Khub Chand*** (supra)– the fact that the owner may have notice of the particulars of the intended acquisition under Section 5(2) does not serve the purpose of Section 4, for such a notice shall be given after the appropriate officer or officers enter the land and submit the particulars mentioned in Section 4. The objects of the two sections was held to be different. The object of one, section 4(1), was to give intimation to the person whose land is sought to be acquired, of the intention of the officer to enter his land before he does so and that of the other [Section 4(2)]

was to enable him to know the particulars of the land which is sought to be acquired. The Supreme Court emphasized the use of the word “thereupon and shall be lawful” under Section 4(2) to hold that the said expression indicated that unless such a public notice [as is referred in Section 4(1)] is given, the officer or his servants cannot enter the land. It is a necessary condition for the exercise of the power of entry.

29. In this context it considered an earlier Constitution Bench decision rendered in the case of ***Babu Barkya Thakur Vs. State of Bombay*** reported in ***AIR 1960 SC 1203*** as also the issue involved in the said case as to whether an omission in the notification under Section 4 to mention the public purpose could be validated by a subsequent declaration in Section Section 6 under the Act, 1894 and held that observations made in the said case can not be an authority for the position that, if a public notice of the notification was not given as prescribed in Section 4, it can be ignored. From a reading of the judgment in ***Khub Chand*** (supra) it is evident that it is a notification under Section 4(1) which is starting point of acquisition proceeding under the Act, 1894.

30. In the case of ***Deepak Aggarwal*** (supra) also the Supreme Court considered the decision of ***Babu Barkya Thakur's case*** (supra) as referred in a subsequent decision in ***M/s Fomento Resorts And Hotels Ltd. Vs. Gustavo Ranato Da Cruz Pinto and Others*** reported in ***(1985) 2 SCC 152***, and held that a careful

scanning of all the decisions cited by both sides would thus reveal that all those decisions hold that land acquisition proceedings under the L.A. Act begin with the publication of a notification under sub-section (1) of Section 4. A declaration under Section 6 of the L.A. Act is one of the steps under the L.A. Act which ultimately culminates into the conclusion of the proceedings by making an award and taking over possession of the acquired land. A declaration under Section 6 cannot be made without holding an inquiry unless urgency clause under Section 17 is applied. Publication of a notification under sub-section (1) of Section 4 of the L.A. Act is condition precedent for taking further steps. Hence, such a notification is the starting point of acquisition proceedings under the L.A. Act. The initiation of the proceedings is by the publication of the notification under sub-section (1) of Section 4 of the L.A. Act. Thus, it clearly opined that a notification under Section 4(1) of the Act, 1894 is the starting point of the acquisition proceeding under the said enactment and that initiation of proceedings is by publication of the notification under Section 4(1) of the Act, 1894.

31. Thereafter, in the case of **Deepak Aggarwal** (supra) it proceeded to consider the meaning of the word '**initiated**' used in Section 24(1) of the Act, 2013 keeping in mind the context in which it has been used and also keeping in mind the law that all interpretations must subserve and help implementation of the intention of the Act concerned. After referring to the object behind enactment of the Act, 2013, Article 300-A etc. and also taking into

consideration the dictionary meaning of the word 'initiated' as defined in *Webster's Third New International Dictionary* and *Shorter Oxford English Dictionary*, it opined as under:-

“33. *The words 'initiate' or 'initiated' are not defined under the LA Act and also under the 2013 Act. Hence, to ascribe its meaning the dictionary meaning of the word has to be looked into. In Webster's Third New International Dictionary, the word "initiate" has inter alia been defined thus:*

“to begin or set going: make a beginning of: perform or facilitate the first actions, steps, or stages of.”

In Shorter Oxford English Dictionary the word "initiate" is defined as:

“to begin, commence, enter upon, to introduce, set going, originate.”

34. *In the light of the above discussion and taking note of the legislative intention we have no hesitation to hold that the point of initiation of land acquisition proceedings under the LA Act for the purpose of Section 24(1) of the 2013 Act, is issuance and publication of Section 4(1) notification in the Official Gazette of the appropriate Government.*

35. *We think it only befitting to supplement further reasons for supporting our conclusion as above. A perusal of Section 4 of the LA Act would reveal that a preliminary Notification under Section 4(1) is issued whenever it appears to the*

appropriate Government that land in any locality is needed or likely to be needed for any public purpose. The said formal expression of the decision takes concrete shape and forms only on its publication in the Official Gazette. It is only upon issuance and publication of a notification under Section 4(1) that any officer, either generally or specially authorised by the appropriate Government and his servants and workmen could lawfully enter upon and survey and take levels of any land in such locality in terms of sub-section (2) thereof.

36. *In the circumstances, it is only worthy to refer to Section 4 of the LA Act as a whole. They read thus:*

“4. Publication of preliminary notification and power of officers thereupon. – (1) *Whenever it appears to the [appropriate Government] the land in any locality [is needed or] is likely to be needed for any public purpose [or for a company], a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language], and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)].*

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workman, -

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle;”

37. *Section 4(2) would reveal that besides entering upon and surveying and taking levels of any land in the locality concerned, the officer authorised by the Government through the Notification is also empowered to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether the land is adapted for all purposes; to set out the boundaries of the land proposed to be taken and the intended line of work (if*

any) proposed to be made thereon; to mark such levels, boundaries and line by placing marks and cutting trenches and such other activities mentioned under sub-Section (2) thereof. In such circumstances, the fact is that it is the issuance and publication of Section 4(1) notification that will empower the authorised officer and workmen to enter into and do such permissible acts and activities. This fact was noted in Babu Barkya Thakur's case as well.

38. *In Shiv Kumar Vs. Union of India a three-Judge Bench of this Court held that a purchaser of land in respect of which notification under Section 4(1) of the LA Act issued and published (after the issuance of Section 4 notification under the LA Act) did not acquire any right in the land concerned and such sale is ab initio void and such a person would have no right to claim that land under the policy of law. Section 23 of the LA Act deals with matters to be considered in determining compensation. Going by the said provision, the market value of the land in question was to be decided taking the market value at the date of the publication of the notification under Section 4. Going by the settled position, a vital defect in the Section 4(1) notification under the LA Act cannot be cured by issuing and publishing a declaration under Section 6 of the LA Act and in such circumstances, it would entail annulment of both the notifications and also the acquisition proceedings. All the aforesaid aspects would reveal that issuance and publication of a valid Section 4(1) Notification, was the*

foundation for acquisition of land in any locality under the LA Act. All the above reasons will fortify our conclusion and justify the rejection of the contention that Section 4(1) notification is nothing but a mere formality and got no real relevance or importance in the process of land acquisition under the LA Act.”

32. The aforesaid decision in **Deepak Aggarwal** (supra) is relevant to the question before us as it helps us understand the date/ point of initiation of acquisition proceedings under the Act, 1894.

33. We may in this context also refer to a decision reported in **(1985) 3 SCC 1; Collector (District Magistrate) Allahabad and Anr. Vs. Raja Ram Jaiswal**, wherein, the decision in the case of **Khub Chand** (supra) was considered. **Raj Ram Jaiswal's case** (supra) noticed that **Khub Chand's case** (supra) distinguished the decision in **Babu Barkya Thakur** (supra) and it approved the statement contained in **Somavanti Vs. State of Punjab** reported in **AIR 1963 SC 151** that a valid notification under Sub-section (1) of Section 4 is a condition precedent to the making of a declaration under sub-section (1) of Section 6. Hon'ble the Supreme Court in **Raj Ram Jaiswal's case** (supra) observed that this view had been consistently followed and was approved in **State of Mysore Vs. Abdul Razak Sahib** reported in **(1973) 3 SCC 196**, wherein, it was observed that “in the case of a notification under Section 4 of the Land Acquisition Act, the law has prescribed that in addition to the publication of the notification in the Official Gazette, the Collector

must also give publicity of the substance of the notification in the concerned locality. Unless both these conditions are satisfied, Section 4 of the Land Acquisition Act cannot be said to have been complied with. The publication of a notice in the locality is a mandatory requirement”.

34. Para 16 of ***Raja Ram Jaiswal 's case*** (supra) is relevant in the context of the issues involved before us and it reads as under:-

“16. Assuming that a notification in the Official Gazette is a formal expression of the decision of the Government, the decision of the Government is hardly relevant, unless it takes the concrete shape and form by publication in the Official Gazette. Where a decision of the Government to be effective and valid has to be notified in the Government Gazette, the decision itself does not become effective unless a notification in the Official Gazette follows. In Mahendra Lal Jaini v. The State of Uttar Pradesh & Ors.(2) it was held that a notification under Sec. 4A of the Indian Forest Act, 1927 is required to be published in the Gazette and unless it is so published, it is of no effect. Logically, the same view must be adopted for a notification under Sec. 4. Therefore assuming that a notification is a formal expression of a decision of the Government to acquire land, unless the decision is notified in the Government Gazette by an appropriate notification, the proceedings for acquisition cannot be said to have been initiated and the decision would remain a paper

decision. Sec. 4 (1) further requires that 'the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.' The expression 'such notification.' in the latter part of Sec. 4 (1) and sequence of events therein enumerated would clearly spell out that first the Government should reach a decision to acquire land, then publish a notification under Sec.4 (1) and simultaneously or within a reasonable time from the date of the publication of the notification cause a notice to be published containing substance of such notification meaning thereby that notification which is published. Obviously, therefore, there cannot be a publication in the locality prior to the issuance of the notification. The submission of Mr. Kacker does not commend to us."

35. Clearly, Hon'ble the Supreme Court held that even assuming that a notification under Section 4(1) is a formal expression of a decision of the Government to acquire land, unless the decision is notified in the Government Gazette by an appropriate notification, the proceedings for acquisition cannot be said to have been initiated and the decision would remain a paper decision. It considered the language used in Sub-section (1) of Section 4 and the sequence of events enumerated therein to hold that same clearly spelt out that first the Government should reach a decision to acquire land, then publish a notification under Section 4 (1) and simultaneously or within a reasonable time from the date of the publication of the

notification cause a notice to be published containing substance of such notification meaning thereby that notification which is published. Obviously, therefore, there cannot be a publication in the locality prior to the issuance of the notification. This is relevant in the context of the assertion of the opposite parties that the notification under Section 4(1) is dated 27.12.2013 and is prior to coming into force of the Act, 2013 i.e. prior to 01.01.2014, because preparing a notification and keeping it on file by itself is of no legal significance with regard to initiation of acquisition proceedings under the Act, 1894 and it would at best be remain a paper decision as held by in the case of ***Raja Ram Jaiswal*** (supra).

36. In the case of ***Narendrajit Singh and Anr. Vs. State of U.P. and Anr.*** reported in ***(1970) 1 SCC 125*** also the Supreme Court in a matter arising out of a decision of the Allahabad High Court, held, after considering the provisions of the Act, 1894, that the process of acquisition must start with a notification under Section 4. Issuance of notification under Section (1) of Section 4 is a condition precedent to the exercise of any further powers under the Act.

37. In a decision reported in ***(2002) 7 SCC 712; Urban Improvement Trust, Udaipur Vs. Bheru Lal & Ors.*** the Supreme Court also held that from the different phraseology used in Sections 4(1) and 6(1), it is apparent that under Section 4(1) publication in the Official Gazette is a condition precedent for acquiring the land. It further observed in Paragraph 18 that if the decision taken by the

Government to acquire the land is not notified in the Official Gazette, the said decision will be of no effect. Section 4 of the Act, 1894 mandates that whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and acquisition process starts after publication of the notification in the Official Gazette under Section 4(1), therefore, publication of the notification under Section 4(1) being a condition precedent for acquisition of land, the said date is required to be taken into consideration for counting the period of limitation of one year and the previous publication of notices in the newspapers were rightly ignored by the High Court. This decision also holds that publication of notification under Section 4(1) in the Official Gazette is starting point of acquisition under the Land Acquisition Act, 1894.

38. A Full Bench of Bombay High in the case of **Sandeep S. Metange and Ors. Vs. State of Maharashtra and Ors.** reported in **2022 (1) Mh.L.J. 146** also had the occasion to consider the point of initiation of acquisition proceedings under the Act, 1894 and after considering a catena of decisions of the Supreme Court, it ultimately opined that publication of preliminary notification under Section 4 of the Act, 1894 amounts to initiation of land acquisition proceedings for the purposes of Section 24(1) of the Act, 2013.

39. We may in this very context refer to a Division Bench Judgment of Delhi High Court reported in **1991 SCC OnLine Del 784; Universal Cans & Containers Ltd. Vs. Union of India**, wherein, the question which fell for consideration was, what would be the date of notification of the Official Gazette which take effect; whether it is the date on which the Official Gazette is printed or the date when it is issued to the public? This question arose in the context of the exemption notification under Section 25 of the Customs Act, 1962. Considering the language of the said provision the Division Bench opined that the Central Government is to inform the general public, or the trading community in particular, as to the exemption notification or its withdrawal. That can only be done if the Official Gazette is made available to the general public. The word "notification" in ordinary parlance means the act of notifying or giving notice; notice given in words, or anything which communicates information. It opined that the notification had to be in writing and had to be published in the Official Gazette. The word "publish", according to the *New Webster's Dictionary of English Language*, means "to cause to be printed and offer for sale to the public, as a newspaper, book, magazine, or the like; to make public; to make known to public in general; to promulgate." According to the *Concise Oxford Dictionary*, the word "publish" means "make generally known; announce formally; promulgate; issue copies of (book, engraving, etc.) for sale to the public; and the word "notification" is the act of

notifying which means "make known, announce, reiterate, inform, give notice to."

40. The Division Bench then opined, what is the use of the Official Gazette which is lying in the printing press of the Government of India or any Government Department and is not made known to the public who are to be affected by such a Gazette. It opined that principle "ignorance of law is no excuse" can not be invoked unless the law is made public. It opined that the date on which the Official Gazette is made available to the public that matters, and not the date on which it is shown to have been printed. These observations apply to the case at hand also, as, merely printing the date 27.12.2013 on the notification by itself meant nothing unless it was published in the Official Gazette.

41. The above discussion clarifies the law on the issue of date/ point of initiation of acquisition proceedings under the Act, 1894.

42. Now, in the case at hand not only the publication in the newspapers but also in the Official Gazette as well as public notice in the locality was done after 01.01.2014 i.e. after the Act, 2013 had come into force and by virtue of Section 114 thereof the Act, 1894 had already been repealed, meaning thereby, the aforesaid notifications/ publications/ public notice was done under Section 4(1) of a repealed Act i.e. the Act, 1894.

43. Legal position is settled that “Repeal” cannotes abrogation or obliteration of one statute by another, from the statute book as completely as if it had never been passed. When the Act is repealed, it must be considered, subject to saving clause, if any, as if it had never existed. Legal position in this regard has been elucidated in a judgment reported in **(1975) 3 SCC 512; India Tobacco Co. Ltd. Vs. Commercial Tax Officer, Bhavanipur and Ors., (2000) 2 SCC 536; Kolhapur Canesugar Works Ltd. Vs. Union of India and (1997) 1 SCC 650; Gajraj Singh Etc. Vs. The State Transport Appellate Tribunal and Ors.**

44. The effect of Section 6 of the General Clauses Act, 1897 (hereinafter referred to as ‘the Act, 1897’) came up for consideration before Hon’ble Supreme Court in a case reported in **(2008) 12 SCC 112; State of Punjab and Ors. Vs. Bhajan Kaur and Ors.,** wherein, after noticing the said provision it was observed that section 6 of the General Clauses Act, inter alia, saves a right accrued and/ or a liability incurred. It does not create a right. When Section 6 applies only an existing right is saved thereby. The existing right of a party has to be determined on the basis of the statute which was applicable and not under the new one. If a new Act confers a right, it does so with prospective effect when it comes into force, unless expressly stated otherwise.

45. In the facts and circumstances noticed earlier Section 6 of the Act, 1897 does not save the impugned proceedings because no

proceedings were validly initiated under the Act, 1894 prior to 01.01.2014, therefore, there was nothing which could be saved under Section 6.

46. Section 24 of the Act, 2013 also does not apply nor does it save the acquisition proceedings impugned herein because there was no initiation of such proceedings under the Act, 1894 on or before 01.01.2014.

47. As, there was no initiation of land acquisition proceedings under the Act, 1894 while it was in operation i.e. prior to its repeal on 01.01.2014, therefore, there is no question of its saving whether under Section 24 of the Act, 2013 or under Section 114(2) of the said Act read with Section 6 of the Act, 1897.

48. In fact, as stated earlier it is a case of initiation of acquisition proceedings after 01.01.2014 under a repealed enactment i.e. the Act, 1894, therefore, the impugned notifications etc. are apparently and fundamentally erroneous in the eyes of law and *ab initio void*.

49. In view of the above discussion, it can not be said that the land acquisition proceedings under the Act, 1894 were initiated prior to 01.01.2014 merely because the notifications bore the date 27.12.2013, as would be evident from the law clarified and declared judgment of Hon'ble the Supreme Court in the case of **Raja Ram Jaiswal** (supra) and **Bheru Lal** (supra). The decision to initiate acquisition proceedings and the notification in this regard unless they

are notified and published in the gazette etc. have no meaning in the eyes of law and at best can only be treated as a decision on paper, nothing more. The date on the notification is irrelevant. What is relevant is the date of publication in the newspapers, notification in the Official Gazette and the public notice referred in Section 4(1) and most importantly, the last of these dates which alone is to be treated as the date of publication of the notification under Section 4(1) of the Act, 1894. As, all these dates are subsequent to 01.01.2014, therefore, apparently, the notifications are a nullity in the eyes of law, as, the provisions under which they have been published/ notified etc. was non existent on the relevant dates of such publication etc., having been repealed prior to it. The purport of repeal has already been discussed earlier which need not be reiterated. In fact, in the case at hand not only the date of notification under Section 4(1) but also the date of notification/ declaration under Section 6 read with Section 16 is subsequent to 01.01.2014 and all the proceedings under Act, 1894 have been held after 01.01.2014, therefore, the entire acquisition proceedings are a nullity in the eyes of law as they have neither been initiated nor undertaken under the Act, 2013 which was the law applicable on and after 01.01.2014. The contentions of Shri Chandra to the contrary are rejected.

50. In Para 21 and 24 of the writ petition it has been specifically averred by petitioner that physical possession of the land in question has not been taken from the petitioner by opposite parties and this averment has not been denied specifically in counter affidavit of

opposite party no. 4- Special Land Acquisition Officer and the Development Authority. It is also accepted to opposite party no. 4 that till date compensation has not been paid to the petitioner as there are several co-sharers etc., though, the amount as per the Development Authority has been deposited.

51. On account of impugned action, the compensation, though, determined in terms of the Act, 2013, has been determined on the basis of date of notification under Section 4(1) of the Act, 1894 issued in January/February, 2024, which, as held by us, is illegal. Moreover, we are now in 2026 and petitioner is still in actual possession of the land.

52. We have also gone through the Statement of object and reason of the Act, 2013 and its scheme and we find that the Act, 2013 is a much more beneficial legislation from the point of view of the land owner and affected family etc. and one of the objects which it seeks to achieve is just and fair compensation to such land owners but in the case at hand for the reasons already given hereinabove, the acquisition proceedings have not taken place in terms of the Act, 2013 but have taken place under a repealed enactment i.e. the Act, 1894 thereby causing grave prejudice to the petitioner and violating his right under Article 14, 300A of the Constitution of India apart from those available under the Act, 2013.

53. So far as delay in filing of the writ petition is concerned, no doubt the notifications impugned were issued in 2013 and the award

was initially rendered in 2016, but same was amended in 2022. In any case considering the fundamental flaw as noticed, when the proceedings themselves are a nullity in the eyes of law and also considering the fact that possession is still with the petitioner, further, the public purpose for which the acquisition was made having not been achieved in the sense that the construction of 45 meter wide road has not taken place till date even after lapse of 12 years and the illegality being so fundamental it can not be cured nor get validated by mere lapse of time, therefore, this is not a factor which could persuade us to dismiss the writ petition in the facts of this case on the point of delay. The fact that acquisition proceedings have not been completed even after 12 years is itself a factor which goes against the opposite parties. The objection of Shri Chandra in this regard is not acceptable in the facts of this case.

54. The logical consequence of the above discussion and our findings on the issues involved would be to quash the entire acquisition proceedings but we can not be unmindful of the fact that acquisition proceedings are for construction of a 45 meter public road i.e. for a public purpose, though, they have remained pending since 2014. The total land which has been acquired is only about 2.737 hectares which is not a large tract of land and as regards the land of the petitioner which is part of acquired land, it is only 0.5020 hectares, therefore, we are of the opinion that instead of quashing the acquisition proceedings equities need to be balanced in a way so that on the one hand the public purpose behind the acquisition is not

defeated and on the other hand the violation of valuable rights of the petitioner is suitably compensated. This can be done if the concerned opposite parties pay compensation under the Act, 2013 to the petitioner based on the rates etc. acceptable as on date of this judgment and not on the basis of date of the impugned notification of 2014 under Section 4(1) referred earlier. It is ordered accordingly. The compensation determined under the relevant award shall be redetermined and paid to the petitioner under the Act, 2013 in the light of the judgment, within a period of three months. The opposite parties shall not take possession of the land unless compensation is recalculated and paid as above. The entire acquisition proceedings shall be completed within 6 months.

55. With the aforesaid observations, the writ petition is **disposed of.**

(Manjive Shukla,J.) (Rajan Roy,J.)

July 3, 2026
R.K.P.