Before Hemant Gupta,
G.S. Sandhawalia &
Kuldip Singh, JJ.

MAHARANA PRATAP CHARITABLE TRUST (REGD)—*Petitioner*

versus

STATE OF HARYANA AND OTHERS—*Respondents*

CWP No. 6860 of 2007

December 24, 2014

A. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - S. 24(2) - Land Acquisition Act, 1894 (Repealed) - Ss. 4, 6 and 11 - General Clauses Act, 1897 - S. 6 - Legal fiction - Lapsing of Acquisition proceedings - Acquisition proceedings initiated under the 1894 Act - Award made five years or more prior to the commencement of the 2013 Act - Failure of State to take physical possession or make payment of compensation, pursuant to the Award - Irrespective of any interim orders passed by the Court, the Acquisition proceedings shall stand lapsed - Subject to lapsing of the proceedings, it shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the 1894 Act - Mutatis-mutandis applicable to all cases, also where the writ petitions have been dismissed - Section 24 does not carve out any exception in respect of the writ petitions, which have been dismissed earlier - Reference answered (Majority view).

Held (*per Hemant Gupta, J., G.S. Sandhawalia, J. agreeing*), that it is no doubt correct that Section 24 introduces a legal fiction by which the acquisition proceedings stand lapsed by operation of law i.e. where the award has been made five years or more prior to the commencement of the Act, but the physical possession of the land has not been taken or compensation has not been paid.

(Para 45)

Further held, that subject to the lapsing of the proceedings in the event of the failure of the State to take possession or payment of compensation, the provisions of the Old Act, shall not affect any right,

privilege, obligation or liability acquired, accrued or incurred under the Old Act. Therefore, the proceedings, which were subject matter of stay under the Old Act, would be governed by the provisions of the Old Act itself. In the face of the judgments of the Hon'ble Supreme Court in *Bharat Kumar v. State of Haryana and others* (2014) 6 SCC 586, *Bimla Devi's* case and *Sree Balaji Nagar Residential Association v. Tamil Nadu and others* decided on 10-9-2014, we find it difficult to follow the other judgments on the abstract proposition of law. In view of the aforesaid judgments to which we are bound, we hold that irrespective of any interim orders passed by the Court, the proceedings shall stand lapsed.

(Paras 62 and 63)

Further held, that the findings recorded above, shall be mutatis-mutandis applicable to all cases, where the writ petitions have also been dismissed. Section 24 of the Act does not carve out any exception in respect of the writ petitions, which have been dismissed earlier.

(Para 64)

Held (*per Kuldeep Singh, J.*), that Section 24(2) of the 2013 Act starts with non obstante clause, therefore, any other act having field in the matter would not have any overriding effect on the provisions of Section 24(2) of the 2013 Act. Thus, no question arises with regard to the application of old Act in cases where there was stay orders granted by various Courts. Therefore, I am of the considered view that as per law laid down in *Pune Municipal Corporation and another v. Harkchand Misirimal Solanki & others* decided on 24-1-2014, *Union of India v. Shiv Raj Singh and others* (2014) 6 SCC 564 and *Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others,* decided on 10-9-2014, Section 6 of the General Clauses Act, 1897, is subject to the provisions of Section 24(2) of the 2013 Act.

The principle of *actus curiae neminem gravabit* has no application to the provisions of Section 24(2) of the 2013 Act and as per law laid down by the Hon'ble Supreme Court in *Shiv Raj's* case (supra), *Pune Municipal Corporation's* case (supra) and *Sree Balaji Nagar Residential Association's* case (supra), the period of stay granted by the Courts is not to be excluded for determining the period of 5 years under Section 24(2) of the 2013 Act.

The benefit of Section 24(2) of the 2013 Act is applicable even to those land owners whose writ petitions have already been dismissed expressly or impliedly and who by virtue of interim stay did not permit the State to take possession of their acquired land or declined to draw compensation offered by the Collector, provided the conditions laid down in Section 24(2) of the 2013 Act are met.

(Paras 81 to 83)

B. Constitution of India, 1950 - Art. 226 - Interpretation of Statutes - Words should be given their ordinary natural grammatical meaning subject to the rider that in construing words in a constitutional enactment conferring legislative power, the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude - Beneficial legislation should receive liberal interpretation so as to advance the object of the statute.

Held (*per Hemant Gupta, J., G.S. Sandhawalia, J. agreeing*), that the basic rule of interpretation is that the words should be given their ordinary natural grammatical meaning subject to the rider that in construing words in a constitutional enactment conferring legislative power the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude. The beneficial legislation should receive liberal interpretation so as to advance the object of the statute.

(Para 41)

C. Constitution of India, 1950 - Art. 141 - Binding precedents - The judgments of the Supreme Court are binding on the High Courts - In case, there is a conflict between the judgments of the co-equal strength Benches of the Supreme Court, both being binding precedents, it is open to the High Court to follow the judgments, which it considers appropriate.

Held (*per Hemant Gupta, J., G.S. Sandhawalia, J. agreeing*), that the decision rendered by a Bench of the Supreme Court is binding on the Bench of co-equal strength. However, in the event of any reservation, the matter can be referred to the Larger Bench by a Bench of the equal strength. However, it is the Larger Bench, which can take a view contrary to the view expressed by a Bench of lesser Quorum. But

the judgments of the Supreme Court are binding on the High Courts in terms of Article 141 of the Constitution of India. Mere fact that an argument was not raised or reasoning is fallacious in the opinion of the higher Court or a particular provision of the statute was not specifically noticed by the Bench, is not a ground on the basis of which the binding precedent can be ignored. The proper course for the High Court is to find out and follow the opinion expressed by the Larger Bench in preference to those of the smaller Benches of the Court. The opinion expressed by the Larger Bench is to be arrived at but by not reading a line here and there but on reading of the entire judgment. In case, there is a conflict between the judgments of the co-equal strength Benches of the Supreme Court, both being binding precedents, it is open to the High Court to follow the judgments, which it considers appropriate.

A Full Bench of this Court in *M/s Indo Swiss Time Limited Dundahera v. Umrao and others* 1981 PLR 335, has examined the issue as to which of the contradictory judgments passed by the Superior Court, is to be followed. It was held that the High Court must follow the judgment which appears to it to lay down the law more elaborately and accurately.

(Paras 42 and 43)

Held (*per Kuldeep Singh, J. dissenting*), that these maxims cannot be invoked to circumvent the express provisions of law or any authoritative pronouncement of the superior court on the ground that one or other legal maxim was not considered by the Court as all the points, which are raised or which should have been raised are deemed to have been raised, considered and decided. Under Article 141 of the Constitution of India, the law declared by the Hon'ble Supreme Court of India is binding on all the Courts.

(Para 80)

M.L. Sarin, Senior Advocate, with Hemant Sarin and Nitin Sarin, Advocates, *for the Petitioner.*

Shailendra Jain, Senior Advocate, with Mannu Chaudhary, Advocate.

R.S. Rai, Senior Advocate, with Rajeev Anand and Harsh Bunger, Advocates.

Puneet Bali, Senior Advocate, with Parveen Jain and Arun Gupta, Advocates.

Mohan Jain, Senior Advocate, with Dinesh Thakur, Fateh Saini and Arastu Chopra, Advocates.

Ashwani Kumar, Senior Advocate, with Aashish Chopra and Stuti Tandon, Advocates.

Adarsh Jain, Advocate.

[For the Land Owners]: H.S. Hooda, Advocate General, Haryana, with Kamal Sehgal, Additional Advocate General, Haryana.

Ashok Aggarwal, Advocate General, Punjab, with P.S. Bajwa, Additional Advocate General, Punjab.

Sanjeev Sharma, Senior Advocate, with Shekhar Verma, Advocate, for U.T., Chandigarh.

Arun Walia, Senior Advocate, with Gitish Bhardwaj and Sarv Daman Rathore, Advocates, for HUDA.

Rajesh Sheoran, Advocate, for respondent No. 4.

HEMANT GUPTA, J.

(1) In CWP No.6860 of 2007, the interpretation of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'), is the subject matter of opinion of this Bench consequent to an order dated 10.7.2014 passed by the Division Bench, of which one of us (Hemant Gupta, J.) was a member so as to examine whether the order of the Hon'ble Supreme Court in ***Union of India v. Shiv Raj & others(1),*** would be applicable to the cases where there is an interim order passed by the Court. In other words, whether the period of stay granted by a Court is required to be excluded for determining the period of five years for lapsing of proceedings initiated under the Land Acquisition Act, 1894 (for short 'the Old Act').

(2) The said questions arise out of the fact that the present writ petition was filed challenging the Notifications under Sections 4 and 6 dated 21.3.2006 and 20.3.2007 of the old Act. In the writ petition,

(1) (2014) 6 SCC 564

an order of stay of dispossession was granted on 8.5.2007. The said order continues till today.

(3) Subsequently, another question "Whether the benefit of Section 24(2) of the Act is admissible even to those land owners, whose writ petitions have already been dismissed, and who by virtue of the interim stay, did not permit the State to take possession of their land and declined the offer of compensation by the Collector" was also referred for the opinion of the Larger Bench in CWP No. 12066 of 2014 - (***Mahinder Yadav* v. *State of Haryana***), *vide* order dated 11.7.2014. The said writ petition arises out a fact that in the earlier writ petition (CWP No. 13277 of 1999), the notifications under Sections 4 and 6 dated 8.3.1989 and 7.3.1990 under the old Act, were the subject matter of challenge. Subsequently, Award No. 11 dated 18.3.1991 and Award No. 11 dated 5.3.1992 were announced. The earlier writ petition filed by the petitioner was dismissed as regards acquisition is concerned on 3.10.2013, but with a direction to consider the claim of the petitioner for allotment of an alternative site as per the Rehabilitation and Resettlement Policy. In the present writ petition, the petitioners claims that in view of Section 24 of the Act, the acquisition proceedings would be deemed to be lapsed as the possession of the land was not taken within five years prior to the commencement of the Act.

(4) The issues raised are of considerable importance and we had the benefit of the assistance of Senior Counsels, on behalf of the land owners as also the Advocates General, Punjab and Haryana. We have heard all the Counsels who wanted to argue the matter.

(5) At this stage, certain provisions of the Old Act, are extracted, to comprehend the issues raised.

> **"6. *Declaration that land is required for a public purpose.*—**
>
> *(1) Subject to the provisions of Part VII of this Act, when the Appropriate Government is satisfied after considering the report, if any, made under section 5A, 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 officer duly authorised to certify its orders an 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 5A, sub-section (2):

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of three years from the date of the publication of the notification; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:

Provided further xx xx xx.

Explanation l.–In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2.– xx xx xx

(3) xx xx xx

11. *Enquiry and award by Collector.—*

(1) On the day so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land and at the date of the publication of the notification under section 4, sub-section (1), and into the respective interests of the persons

claiming the compensation, and shall make an award under his hand of—

(i) xx xx xx

11A. ***Period within which an award shall be made.—***

(1) The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.–In computing the period of two years referred to in this section the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

xx xx xx

16. ***Power to take possession***

When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

xx xx xx

31. ***Payment of compensation or deposit of same in Court***

(1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation

in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.....”

(6) In ***Padma Sundara Rao v. State of T.N.(2),*** it was held that the period of stay granted by the Courts alone is liable to be excluded for determining the period for announcing the Award under the Old Act. The Hon’ble Supreme Court found that the earlier two judgments in ***N. Narasimhaiah v. State of Karnataka(3),*** and ***State of Karnataka v. D.C. Nanjudaiah(4),*** have not laid down correct law and that the view expressed in ***A.S. Naidu v. State of T.N.*** SLPs(C) Nos. 11353-55 of 1988 and ***Oxford English School v. Govt. of T.N.(5),*** was affirmed. It was also held that the Full Bench Judgment of the Madras High Court, reported as ***K. Chinnathambi Gounder v. Govt. of T.N.(6),*** was rendered much prior to the amendment of the old Act by 1984 Amending Act and that the maxim *actus curiae neminem gravabit,* had no applicability in the said case.

(7) It was held that the earlier decisions to exclude time spent in obtaining the copy of the order after the stay was vacated either in terms of Section 11A or Explanation to Section 6 of the old Act is not correct in law. It was held that the Court should not place reliance on decisions without discussing as to how the factual situation fits in with

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(2) (2002) 3 SCC 533

(3) (1996) 3 SCC 88

(4) (1996) 10 SCC 619

(5) (1995) 5 SCC 206

(6) AIR 1980 Madras 251

the factual situation of the decision on which reliance is placed. It was held as under:-

> *"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington v. British Railways Board, (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.*
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> xx xx xx
>
> *15. Two principles of construction one relating to* casus omissus *and the other in regard to reading the statute as a whole appear to be well settled. Under the first principle a* casus omissus *cannot be supplied by the Court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a* casus omissus *should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. 'An intention to produce an unreasonable result', said Danckwerts, L.J., in Artemiou v. Procopiou (1966 1 QB 878), "is not to be imputed to a statute if there is some other construction available". Where to apply words literally would 'defeat the obvious intention of the legislation and produce a wholly unreasonable result' we must 'do some violence to the words' and so achieve that obvious intention and produce a rational construction. [Per Lord Reid in Luke v. I.R.C. (1966 AC 557)*

where at p. 577 he also observed: 'this is not a new problem, though our standard of drafting is such that it rarely emerges'."

(8) It is also settled that the order of the stay of dispossession in respect of one of the land owners or the order of *status quo* in the case of one land owner, justifies the State Government not to proceed with the publication of the Notification under Section 6 or of announcing of the Award or to take possession. Reference may be made to ***Abhey Ram v. Union of India(7),*** wherein the Court held as:-

"9. Therefore, the reasons given in B.R. Gupta v. Union of India, 37(1989) Delhi Law Times 150, are obvious with reference to the quashing of the publication of the declaration under Section 6 vis-a-vis *the writ petitioners therein. The question that arises for consideration is whether the stay obtained by some of the persons who prohibited the respondents from publication of the declaration under Section 6 would equally be extendible to the cases relating to the appellants. We proceed on the premise that the appellants had not obtained any stay of the publication of the declaration but since the High Court in some of the cases has, in fact, prohibited them as extracted hereinbefore, from publication of the declaration, necessarily, when the Court has not restricted the declaration in the impugned orders in support of the petitioners therein, the officers had to hold back their hands till the matters were disposed of. In fact, this Court has given extended meaning to the orders of stay or proceeding in various cases, namely, Yusufbhai Noormohmed Nendoliya v. State of Gujarat (1991) 4 SCC 531, Hansraj H. Jain v. State of Maharashtra, 1993 (4) JT 360, Sangappa Gurulingappa Sajjan v. State of Karnataka, (1994) 4 SCC 145, Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan, 1993 (8) JT 194, G. Narayanaswamy Reddy v. Govt. of Karnataka, 1991 (8) JT 12 and Roshnara Begum v. Union of India, 1986 (1) Apex Decision 6. The words "stay of the action or proceeding" have been widely interpreted by this Court and mean that any type of the orders passed by this Court would be an inhibitive action on the part of the authorities to proceed further. When the action of conducting an enquiry under*

(7) (1997) 5 SCC 421

Section 5A was put in issue and the declaration under Section 6 was questioned, necessarily unless the Court holds that enquiry under Section 5A was properly conducted and the declaration published under Section 6 was valid, it would not be open to the officers to proceed further into the matter. As a consequence, the stay granted in respect of some would be applicable to others also who had not obtained stay in that behalf. We are not concerned with the correctness of the earlier direction with regard to Section 5A enquiry and consideration of objections as it was not challenged by the respondent Union. We express no opinion on its correctness, though it is open to doubt."

(9) Later, in another judgment reported as ***Om Parkash v. Union of India(8),*** the Supreme Court approved the earlier judgment in ***Abhey Ram's case*** *(supra)* when it held to the following:-

"70. Perusal of the opinion of the Full Bench in Balak Ram Gupta v. Union of India, AIR 1987 Delhi 239 would clearly indicate with regard to interpretation of the word "any" in Explanation 1 *to the first proviso to Section 6 of the Act which expands the scope of stay order granted in one case of landowners to be automatically extended to all those landowners, whose lands are covered under the notifications issued under Section 4 of the Act, irrespective of the fact whether there was any separate order of stay or not as regards their lands. The logic assigned by the Full Bench, the relevant portions whereof have been reproduced hereinabove, appear to be reasonable, apt, legal and proper.*

71. It is also worth mentioning that each of the notifications issued under Section 4 of the Act was composite in nature. The interim order of stay granted in one of the matters i.e. Munni Lal v. Lt. Governor of Delhi, ILR (1984)1 Del 469 and confirmed subsequently have been reproduced hereinabove. We have also been given to understand that similar orders of stay were passed in many other petitions. Thus, in the teeth of such interim orders of stay, as reproduced hereinabove, we are of the opinion that

(8) (2010) 4 SCC 17

during the period of stay the respondents could not have proceeded further to issue declaration/notification under Section 6 of the Act. As soon as the interim stay came to be vacated by virtue of the main order having been passed in the writ petition, the respondents, taking advantage of the period of stay during which they were restrained from issuance of declaration under Section 6 of the Act, proceeded further and issued notification under Section 6 of the Act.

72. Thus, in other words, the interim order of stay granted in one of the matters of the landowners would put complete restraint on the respondents to have proceeded further to issue notification under Section 6 of the Act. Had they issued the said notification during the period when the stay was operative, then obviously they may have been hauled up for committing contempt of court. The language employed in the interim orders of stay is also such that it had completely restrained the respondents from proceeding further in the matter by issuing declaration/notification under Section 6 of the Act."

(10) It is also not subject matter of dispute that the provisions of the old Act enable the State Government to acquire the land of its citizens on payment of compensation. Such right to acquire the land is a right of sovereign and in discharge of its right to exercise the eminent domain. The legislation (Old Act) is expropriatory in nature, therefore, warrants strict interpretation in its implementation. The old Act deals with only the acquisition of the land on payment of compensation *i.e.* depriving the land owners of their land, but without providing any provision for the rehabilitation of the landowners. On the other hand, the Act initially provides the acquisition of land by making the process of acquisition more stringent on payment of compensation, which is much more liberal than what was contemplated under the old Act and also provides for rehabilitation process. In other words, the provisions of the Act are stringent *vis-a-vis* the old Act in respect of the acquisition, but liberal in respect of grant of compensation and rehabilitation.

(11) Under the Act, before the acquisition process is initiated by the State, preparation of social impact assessment study is required.

It is required to be published and the reports are required to be considered by the appropriate Government. It is only after considering such reports; a preliminary notification can be published in terms of Section 11 of the Act for acquiring of the land for any public purpose. A survey is also required to be conducted after publication of a notification under Section 11 of the Act of the affected persons, to prepare a draft rehabilitation and resettlement scheme. It is, thereafter, notification under Section 19 of the Act is to be published declaring that a particular land is required for a public purpose. The notification under Section 19 of the Act is required to be published within 12 months from the date of preliminary notification. If the declaration is not made within such time, then such notification shall be deemed to have been rescinded. Section 25 of the Act provides that an Award is required to be made by the Collector within a period of 12 months from the date of the order of the declaration under Section 19 of the Act. However, the appropriate Government has been given power to extend the period of 12 months if in its opinion, circumstances justify the same. Section 69 of the Act deals with the Award for the land acquired including the rehabilitation and resettlement of the land owners. The *Explanation* appended to sub-section (2) provides that in computing the period referred to in sub-section (2), any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.

(12) The relevant provisions of the Act read as under:-

"Section 19. Publication of declaration and summary of Rehabilitation and Resettlement.—

(1) When the appropriate Government is satisfied, after considering the report, if any, made under sub-section (2) of section 15, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the "resettlement area" for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of a Secretary to such Government or of any 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 preliminary notification irrespective of whether one report or different reports has or have been made (wherever required).

(2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme along with declaration referred to in sub-section (1):

Provided that xx xx xx

(7) Where no declaration is made under sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded:

Provided that in computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded:

Provided further that the appropriate Government shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same:

Provided also that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned.

xx xx xx

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.

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25. *Period within which an award shall be made.—*

The Collector shall make an award within a period of twelve months from the date of publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the appropriate Government shall have the power to extend the period of twelve months if in its opinion, circumstances exist justifying the same:

Provided further that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned.

xx xx xx

69. *Determination of award by Authority.—*

(1) In determining the amount of compensation to be awarded for land acquired including the Rehabilitation and Resettlement

entitlements, the Authority shall take into consideration whether the Collector has followed the parameters set out under section 26 to section 30 and the provisions under Chapter V of this Act.

(2) In addition to the market value of the land, as above provided, the Authority shall in every case award an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the preliminary notification under section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of one hundred per cent over the total compensation amount."

(13) The provisions of Section 24 of the Act came up for consideration for the first time in the ***Pune Municipal Corporation & another v. Harakchand Misirimal Solanki & others(9),*** decided on 24.1.2014. In the said case, the amount of compensation was not paid to the land owners nor was deposited in the Court by the Special Land Acquisition Officer. Nine petitions were filed before the Bombay High Court to challenge the acquisition process. Two of them were before making the Award and seven were filed after the Award on various grounds. The High Court *vide* order dated 24.10.2008, quashed the acquisition proceedings and gave various directions including restoration of possession. In an appeal against the said order of quashing of the acquisition proceeding, the Hon'ble Supreme Court invoked Section 24(2) of the Act to return a finding that the compensation was not paid for a period of five years prior to the commencement of Section 24(2) of the Act, therefore, the acquisition proceedings have lapsed. It may be noticed that the above appeal was consequent to leave being granted

(9) (2014) 3 SCC 183

in SLP(C) 30283 of 2008. The Supreme Court on 17.12.2008 stayed the operation of the impugned order. Therefore, the land owners could not claim restoration of possession as directed by the High Court.

(14) In ***Bharat Kumar v. State of Haryana and others(10),*** decided on 4.2.2014, an appeal was filed against an order passed by this Court in CWP No. 18375 of 2004 decided on 11.10.2007. There was no interim protection granted to the land owners by this Court in the writ petition filed. In an SLP against the order passed by this Court, the Hon'ble Supreme Court *vide* order dated 28.7.2008 stayed dispossession of the petitioner from the residential structure in the acquired land, but still the possession of the remaining land was not taken for a period of more than five years.

(15) In ***Bimla Devi and others v. State of Harvana and others(11),*** decided on 14.3.2014, the Award was announced on 18.11.1995 by the Land Acquisition Collector, but the compensation was not paid or deposited till 31.1.2014. The physical possession was also with the landowners. Therefore, the Court held that acquisition stands lapsed. It may be noticed that the original record of CWP No. 512 of 1994 before this Court, the appeal before the Supreme Court being against the said judgment, shows that there was interim order of stay dispossession granted on 12.1.1994. In SLP against the order passed by this Court, there was an order to maintain status quo.

(16) In another case reported as ***Union of India and others v. Shiv Raj and others(12)*** decided on 7.5.2014, the Hon'ble Supreme Court decided 11 appeals *i.e.* 10 of Union of India and Civil Appeal No. 1579 of 2010 preferred by Vinod Kapur. The appeals filed by the Union of India were directed against an order passed by the Delhi High Court, wherein the land acquisition proceedings were quashed in view of the fact that the objections filed by the landowners under Section 5A of the old Act were not considered by the statutory authorities in strict compliance of the principles of natural justice. It was also found that the land was covered by the same notification as was notified in the earlier judgment of the Full Bench of the Delhi High

(10) (2014) 6 SCC 586

(11) (2014) 6 SCC 583

(12) (2014) 6 SCC 564

Court reported as ***Balak Ram Gupta v. Union of India(13)***. The same issue was dealt with by the Hon'ble Supreme Court in ***Abhey Ram's case*** (supra) and ***Delhi Administration v. Gurdip Singh Uban(14)***. It may again be noticed that in none of the appeals preferred by the Union of India against the order of the Delhi High Court, there was any interim order.

(17) In ***Shiv Raj's case*** *(supra)*, the Court also considered the circular issued by the Government of India, Ministry of Urban Development dated 14.03.2014, based upon the legal opinion of the Solicitor General of India. A finding was returned that since possession has not been taken till date, it cannot be termed as a deemed payment. Consequently, the appeals were dismissed.

(18) It may further be noticed that Civil Appeal No. 1579 of 2010 filed by Vinod Kapur decided on the same day *vide* a separate order reported as ***Shiv Raj's case*** *(supra),* arose out of a writ petition filed by the land owner challenging the acquisition, dismissed on 17.12.2004 and the review petition on 27.7.2007. It was also noticed that there was a stay of dispossession when the writ petition was pending but no interim order was passed by the Hon'ble Supreme Court. It was noticed that the High Court decided the writ petition in the year 2007 but for a period of seven years there was no stay of proceedings yet no action has been taken by the respondents in pursuance of the award itself. Therefore, the proceedings were deemed to be lapsed. The relevant extracts from the judgment read as under:-

> *"48. In view of the fact that the other lands covered by the same notification and declaration had been the subject matter of various other writ petitions and particularly, the land belonging to one Geeta Devi, the respondent in Civil Appeal No. 4374 of 2009, the matter remained pending, thus, Review Petition etc. had been filed, which was dismissed on 27.7.2007 (Kapur v. Union of India, (2007)145 DLT 328).*
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> *49. It is evident from the orders passed by the High Court that it had granted stay of dispossession during the pendency of the writ*

(13) (2005) 117 DLT 753

(14) (2000) 7 SCC 296

petition as well as the review petition, though no interim order has been passed by this court. The respondent did not take possession of the land in dispute though award had been made in the year 1987-1988, and the High Court had decided against the appellant in the year 2007. Thus, a period of 7 years has lapsed without any stay of proceedings and yet no action has been taken by the respondents in pursuance to the award."

(19) During the course of hearing of arguments, another order of the Hon'ble Supreme Court passed in Civil Appeal No. 8700 of 2013 - ***Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others,*** decided 10.9.2014, was brought to the notice of the Bench. In the said case, relying upon the judgment in ***Pune Municipal Corporation's case*** *(supra)*, it was held that since the physical possession of the land has not been taken, the land acquisition proceedings will have to be treated or declared as lapsed. It was also noticed that a plain reading of section 24 of the Act does not exclude any period during which the land acquisition proceedings might have remained stayed on account of any stay granted by any Court. It was held as under:-

"9. From a plain reading of Section 24 of the 2013 Act it is clear that Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceeding might have remained stayed on account of stay or injunction granted by any court. In the same Act, proviso to Section 19(7) in the context of limitation for publication of declaration under Section 19(1) and the Explanation *to Section 69(2) for working out the market value of the land in the context of delay between preliminary notification under Section 11 and the date of the award, specifically provide that the period or periods during which the acquisition proceedings were held up on account of any stay or injunction by the order of any court be excluded in computing the relevant period. In that view of the matter it can be safely concluded that the Legislature has consciously omitted to extend the period of five years indicated in Section 24(2) even if the proceedings had been delayed on account of an order of stay or injunction granted by a court of law or for any reason. Such casus omissus cannot be supplied by the court in view of law on*

the subject elaborately discussed by this Court in the case of Padma Sundara Rao (Dead) & Ors. v. State of T.N. & Ors. (2002) 3 SCC 533."

(20) During the course of arguments, we have asked learned counsel for the landowners to refer to any statutory provision in any statute or to any judgment which interpreted that the period of stay or any other interim order granted by the Court shall be taken into consideration as the period for determining the period prescribed under any statute. The counsel for the landowners referred to the judgment in ***Pune Municipal Corporation's; Bharat Kumar's, Bimla Devi's; Shiv Raj's*** and ***Sree Balaji Nagar Residential Association's cases*** *(supra)*. However, the counsel could not point out any statutory provision in any statute or any precedent which directs that the period of interim protection granted by the Court shall be taken into consideration to determine the period prescribed under any statute.

(21) On the other hand, Shri Ashok Aggarwal, learned Advocate General, Punjab was not only categorical, but also emphatic that there is no precedent that the period of stay by the court be included in determining the period prescribed under any statute except the judgment of the Hon'ble Supreme Court reported as ***Vineet Kumar v. Mangal Sain Wadhera(15)***. The Court in the said case, considering the question of grant of decree for possession during the exemption period from the rent protection laws to seek eviction of the tenant, held that the order of eviction is required to be passed and executed within the exemption period. It is argued that such judgment was found to be not a good law and was impliedly overruled in ***Atma Ram Mittal v. Ishwar Singh Punia(16)***. In a later judgment reported as ***Shri Kishan v. Manoj Kumar(17),*** another three Judge Bench held that the decision in ***Vineet Kumar's case*** *(supra)* is not good law. The Court held:–

"20. Thus it is seen that this Court has been consistently taking the view that a suit instituted during the period of exemption

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(15) (1984) 3 SCC 352

(16) (1988) 4 SCC 284

(17) (1998) 2 SCC 710

could be continued and a decree passed therein could be executed even though the period of exemption came to an end during the pendency of the suit. The only discordant note was struck in Vineet Kumar v. Mangal Sain Wadhera, 1984(3) SCC 352. We have noticed that several decisions subsequent thereto have held that Vineet Kumar is not good law. We have already construed the relevant provisions of the Act and pointed out that there is nothing in the Act which prevents the civil court from continuing the suit and passing a decree which could be executed".

It is, thus, contended that neither any statute nor the precedents other than the recent orders support the finding that period of interim order has to be taken into consideration for determining the period prescribed under the statute.

(22) With this background, we now examine the respective contentions of learned counsel for the parties.

(23) Learned counsel for the landowners have raised number of preliminary objections that a Division Bench of this Court could not refer the question, as to whether the period of interim order passed by a Court can be excluded or not, for the adjudication of the Larger Bench, as the same is beyond the jurisdiction of this Court as this court is bound in terms of Article 141 of the Constitution of India to follow the law declared by the Hon'ble Supreme Court. It is argued that the discovery of another argument cannot undo or compel reconsideration of a binding principle. The reliance is placed upon judgments reported as ***Ambika Prasad Mishra v. State of U.P. and others(18); Director of Settlements, A.P. and others v. Mr. Apparao and another(19); Industrial Finance Corporation of India Ltd. v. Cannanore Spinning and Weaving Mills Ltd. and others(20); Central Board of Dawoodi Bohra Community and another v. State of Maharashtra and another(21),*** and ***Fida Hussain and others v. Moradabad Development***

(18) (1980) 3 SCC 719

(19) (2002) 4 SCC 638

(20) (2002) 5 SCC 54

(21) (2005) 2 SCC 673

Authority and another(22), to submit that the Judgment of the Supreme Court is binding precedent for this Court.

(24) In ***Central Board of Dawoodi Bohra Community's case*** *(supra)* a Constitution Bench summed up legal position in respect of scope of binding precedents of the larger bench judgments. The Court held that the law laid down by the Supreme Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength and that a Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of coequal strength. The said rules are subject to two exceptions- one it does not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and that if a Bench of larger quorum feels that the view of the law taken by a Bench of lesser quorum, needs correction or reconsideration then for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of the Chief Justice constituting the Bench and such listing.

(25) The Court in ***Ambika Prasad Mishra's case*** *(supra)* held that the every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent. The submissions sparkling with creative ingenuity and presented with high pressure advocacy, cannot persuade to reopen a binding precedent. It was observed as under:-

> *"5. ...That decision binds, on the simple score of stare decisions and the constitutional ground of Article 141. Every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent. In this view, other submissions sparkling with creative ingenuity and presented with high pressure*

(22) (2011) 12 SCC 615

advocacy, cannot persuade us to reopen what was laid down for the guidance of the nation as a solemn proposition by the epic Fundamental Rights case, (1973)4 SCC 225.

6. It is wise to remember that fatal flaws silenced by earlier rulings cannot survive after death because a decision does not lose its authority 'merely because it was badly argued, inadequately considered and fallaciously reasoned'.[Salmond : Jurisprudence, p 215 (11th Edition)]. And none of these misfortunes can be imputed to Kesavanand Bharti v. State of Kerala, (1973)4 SCC 225. . . . . *"*

(26) In ***Director of Settlements' case*** *(supra),* three Judge Bench held as under:-

"7. So far as the first question is concerned, Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is, therefore, an essential function of the Court to interpret a legislation. The statements of the Court on matters other than law like facts may have no binding force as the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts. It is the principle found out upon a reading of a judgment as a whole, in the light of the questions before the Court that forms the ratio and not any particular word or sentence. To determine whether a decision has "declared law" it cannot be said to be a law when a point is disposed of on concession and what is binding is the principle underlying a decision. A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which the judgment was delivered. An "obiter dictum" as distinguished from a ratio decidendi *is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter may not have a binding precedent as the observation was unnecessary for the decision pronounced, but even though an obiter may not have a binding effect as a precedent, but it cannot*

be denied that it is of considerable weight. The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the Court in a given case. So far as constitutional matters are concerned, it is a practice of the Court not to make any pronouncement on points not directly raised for its decision. The decision in a judgment of the Supreme Court cannot be assailed on the ground that certain aspects were not considered or the relevant provisions were not brought to the notice of the Court. . . . . .

18. Coming to the last question, Mr Rao vehemently urged that Shenoy & Co. v. CTO, (1985) 2 SCC 512 requires reconsideration inasmuch as it had not taken into account the various principles including the principle of res judicata. But on examining the judgment of this Court, more particularly, the conclusion in relation to the provisions of Article 141 of the Constitution, and applying the same to the facts and circumstances of the present case, we do not think that a case has been made out for referring Shenoy case (supra) to a Larger Bench for reconsideration. On the other hand, we respectfully agree with the conclusion arrived at by the three-Judge Bench of this Court in Shenoy case. In Shenoy the Court was considering the applicability of Article 141 of the Constitution and its effect on cases, against which no appeals had been filed. A law of the land would govern everybody, and the non-consideration of the principle of res judicata will not be a ground to reconsider the said judgment".

(27) Dr. Ashwani Kumar, learned Senior Counsel, has referred to ***Spencer & Co. Ltd. v. Vishwadarshan Distributor (P) Ltd.(23),*** to contend that in terms of Article 141 of the Constitution of India, all authorities, civil or judicial including the High Court, are mandated by the Constitution to act in aid of the Supreme Court. Thus, it is contended that since the Supreme Court orders in ***Shiv Raj's*** and ***Sree Balaji's cases*** *(supra),* is a mandate to the High Court, there is no option for the High Court, except to follow the same in the letter and spirit.

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(23) (1995) 1 SCC 259

(28) It is argued that the legal proposition laid down by the Hon'ble Supreme Court cannot be bypassed by the High Court on the ground that the attention of the Supreme Court has not been drawn to a maxim. Reliance is placed upon ***Fuzlunbi v. K. Khader Vali and another(24)***. Reference was made to ***Official Liquidator v. Dayanand and others(25),*** to argue that the judicial discipline is sine qua non for sustaining the judicial system, including the argument that the Two-Judge Bench judgment cannot doubt the correctness of the judgment of the Seven-Judge Bench. The Court said that the Two-Judge Bench judgment in ***U.P. SEB v. Pooran Chandra Pandey(26),*** should be read as an obiter and should not be treated to be a binding on the High Court bypassing the principles laid down by the Constitution Bench judgment in ***State of Karnataka v. Umadevi(27)***. Particular reliance was placed upon the following extracts from the said judgment:-

> *"90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by co-ordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass root will not be able to decide as to which of the judgment lay down the correct law and which one should be followed."*

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(24) (1980) 4 SCC 125

(25) (2008) 10 SCC 1

(26) (2007) 11 SCC 92

(27) (2006) 4 SCC 1

(29) It is also argued that any reference to an earlier Larger Bench decision of the Supreme Court will render the subsequent decision of the Supreme Court as *per-incuriam* only when the ratio of the earlier judgment is in conflict with it. Since the provisions of the statute have been interpreted by the Supreme Court, the said judgments interpreting the provisions of the Act cannot be said to be per-incuriam. Reference has been made to ***Sundeep Kumar Bafna v. State of Maharashtra(28),*** to contend that the rule of per-incuriam is strictly and correctly applicable to the ratio decidendi and not to obiter dicta. Relying upon ***State of Bihar v. Kalika Kuer @ Kalika Singh and others(29),*** it was argued that an earlier decision of a Coordinate Bench of the High Court, cannot be said to be rendered per-incuriam for the reason that another possible aspect of the matter was not considered by or raised before that Bench.

(30) It is argued that the proper course for the High Court is to find out and follow the opinion expressed by the Larger Bench of the Supreme Court in preference to those of the smaller Benches of the Court. This practice is now crystallized into the Rule of Law declared by the Supreme Court. Reliance is placed upon ***Punjab Land Development and Reclamation Corporation Ltd. Chandigarh v. Presiding Officer, Labour Court, Chandigarh and others(30),*** and ***Union of India v. K.S. Subramanian(31)***.

(31) Shri Mohan Jain, the learned Senior Counsel, argued that Section 24 of the Act, has created a deemed fiction *i.e.* by operation of law, the acquisition proceedings stand lapsed. Deemed fiction is not a rule but a provision which in law is meant to be true. He referred to the Black's Law Dictionary, wherein 'legal fiction' has been defined to mean 'an assumption that something is true even though it may be untrue, made specially in judicial reasoning to alter how a legal rule operates'. Reference is made to ***Commissioner of Commercial Taxes,***

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(28) AIR 2014 SC 1745

(29) (2003) 5 SCC 448

(30) (1990) 3 SCC 682

(31) AIR 1976 SC 2433

Ranchi & another v. Swarn Rekha Cokes & Colas (P) Ltd.(32). It is argued that while interpreting the provisions creating a legal fiction, the Court must ascertain the purpose for which the fiction is created and having done so, to assume all those facts and consequences which are incidental or inevitable corollaries to giving effect to the fiction. It is contended that since the Act is a beneficial piece of legislation enacted for the benefit of the farmers, the lapse of the proceedings is an inevitable corollary of Section 24(2) of the Act. Reliance is placed upon ***State of Uttar Pradesh v. Hari Ram(33),*** to contend that that legal fiction can be created by the Legislature for the purpose of assuming existence of a fact which does not really exist. It was held to the following effect:-

> *"18. The Legislature is competent to create a legal fiction, for the purpose of assuming existence of a fact which does not really exist. Sub-section (3) of Section 10 contained two deeming provisions such as "deemed to have been acquired" and "deemed to have been vested absolutely". Let us first examine the legal consequences of a "deeming provision". In interpreting the provision creating a legal fiction, the court is to ascertain for what purpose the fiction is created and after ascertaining this, the Court is to assume all those facts and consequences which are incidental or inevitable corollaries to the giving effect to the fiction. This Court in Delhi Cloth and General Mills Co. Ltd., v. State of Rajasthan, (1996) 2 SCC 449, held that what can be deemed to exist under a legal fiction are facts and not legal consequences which do not flow from the law as it stands."*

(32) In ***Ravi Khullar and another v. Union of India & others(34),*** the Supreme Court examined the issues of computing the period of limitation. The Court held that three situations may be visualized; (*a*) where the Limitation Act applies by its own force; (*b*) where the provisions of the Limitation Act with or without modifications

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(32) (2004) 6 SCC 689

(33) (2013) 4 SCC 280

(34) (2007) 5 SCC 231

are made applicable to a special statute; and (*c*) where the special statute itself prescribes the period of limitation and provides for extension of time and/or condonation of delay. Examining the said situations, it was held that time taken for obtaining a certified copy of judgment is excluded because certified copy is required to be filed while preferring an appeal/revision/review etc. challenging the impugned order, but the Court is not permitted to read into Section 11A of the Act for exclusion of time for obtaining a certified copy of the judgment or order. The Court has, therefore, no option but to compute the period of limitation for making an award in accordance with the provisions of Section 11A of the Act after excluding such period as can be excluded under the Explanation to Section 11A of the Act.

(33) Another argument raised is that it is not for the Judges to legislate nor the Judges can add words in the Statute as the doctrine of *casus omissus* is not applicable in India, reliance is placed upon ***B. Premanand and others v. Mohan Koikal and others(35),*** wherein, it was held that:-

> *"9. It may be mentioned in this connection that the first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. the mischief rule, purposive interpretation, etc. can only be resorted to when the plain words of a statute are ambiguous or lead to no intelligible results or if read literally would nullify the very object of the statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule, vide Swedish Match AB v. SEBI (2004)11 SCC 641.*
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> *10. As held in Prakash Nath Khanna v. CIT (2004)9 SCC 686 the language employed in a statute is the determinative factor of the legislative intent. The Legislature is .presumed to have made no mistake. The presumption is that it intended to say what it has*

(35) (2011) 4 SCC 266

said. Assuming there is a defect or an omission in the words used by the Legislature, the Court cannot correct or make up the deficiency, vide Delhi Financial Corpn. v. Rajiv Anand, (2004) 11 SCC 625. Where the legislative intent is clear from the language, the Court should give effect to it, vide Govt. of A.P. v. Road Rollers Owners Welfare Assn. [2004] 6 SCC 210, and the Court should not seek to amend the law in the garb of interpretation.

16. Where the words are unequivocal, there is no scope for importing any rule of interpretation (vide Pandian Chemicals Ltd. v. CIT (2003)5 SCC 590. It is only where the provisions of a statute are ambiguous that the court can depart from a literal or strict construction (vide Nasiruddin v. Sita Ram Agarwal (2003)2 SCC 577). Where the words of a statute are plain and unambiguous effect must be given to them (vide Bhaiji v. SDO (2003)1 SCC 692).

17. No doubt in some exceptional cases departure can be made from the literal rule of the interpretation, e.g. by adopting a purposive construction, Heydon's case (1584)2 Co Rep 7a, mischief rule, etc. but that should only be done in very exceptional cases. Ordinarily, it is not proper for the court to depart from the literal rule as that would really be amending the law in the garb of interpretation, which is not permissible [vide J.P. Bansal v. State of Rajasthan (2003)5 SCC 134 and State of Jharkhand v. Govind Singh (2005)10 SCC 437]. It is for the Legislature to amend the law and not the court (vide State of Jharkhand v. Govind Singh (2005)10 SCC 437".

(34) It is also argued that the Legislature has expressly excluded the period of ad-interim injunction or stay granted by the Courts, when it incorporated sub-section (7) in Section 19, the proviso in Section 25 and explanation in Section 69 of the Act. It is, thus, argued that the intention of the Legislature is explicit to exclude only certain period as provided in the aforesaid provisions by law and not in respect of other periods. Reliance is placed upon ***S.R.Y. Shivaram Prasad Bahadur***

v. Commissioner of Income Tax, Hyderabad(36) and ***Suganthi Suresh Kumar v. Jagdeeshan(37)***.

(35) Shri Randeep Rai, learned Senior Counsel, apart from supporting the arguments raised, referred to the judgment in the matter of ***Jagjit Singh and others v. Union of India and others*** W.P.(C) Nos. 2806/2004 & 2807-2934/2004 decided on 27.5.2014, wherein relying upon ***Shiv Raj's case*** *(supra),* a Division Bench of the Delhi High Court, held that it does not matter, as to what was the reason behind the non-payment of compensation or for not taking possession. If the Legislature wanted to qualify the above conditions by excluding the period during which the proceedings of acquisition of land were held up on account of stay or injunction by way of an order of a Court, it could have been expressly spelt out. He also argued that in case, there is a conflict between the law and equity, it is the law, which has to prevail and that equity can only supplement the law, but it cannot supplant the law so as to override it. Thus, when Section 24 of the Act has not provided for excluding the period of stay, the equitable consideration cannot be applied to the express provisions of the statute.

(36) Shri Rai has relied upon ***Popat Bahiru Govardhane and others v. Special Land Acquisition Officer and another(38)*** to contend that it is not permissible to extend the period of limitation on equitable ground if the statute does not permit the same. The legal maxim *Dura lex sed Lex* was applied, which means that the law is hard but it is the law, therefore, inconvenience is not a decisive factor to be considered while interpreting a statute. In the said case, the Court was considering the question as to when the period for filing an application under Section 28A of the old Act, would commence *i.e.* whether from the date of Award or from the date of knowledge of the Court's Award. It was held as under:-

> *"16. It is settled legal proposition that law of limitation may harsly affect a particular party but it has to be applied with all*

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(36) (1971) 3 SCC 726

(37) (2002) 2 SCC 420

(38) (2013) 10 SCC 765

its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex *which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." (See Martin Bura Ltd. v. Corpn. of Calcutta, AIR 1966 SC 529 and Rohitash Kumar v. Om Prakash Sharma, (2012)13 SCC 792."*

(37) Another judgment referred to by the learned counsel for the landowners was ***Mohammed Gazi v. State of M.P. and others(39)***. It was held that a person cannot be penalized for no fault of his merely by resorting to equity clause in favour of the State particularly when such person is found to have not been benefited or the State deprived of benefits on account of the stay order issued by the Court. In the aforesaid case, a notice inviting tenders was issued by the State. One of the respondents was declared the highest bidder, but his bid was not accepted and cancelled. In a writ petition filed by the highest bidder in the first tender process, an order was passed restraining the officials from taking any step pursuant to the fresh tender notice. The highest bidder in the second tender process was not impleaded as a party in the said writ petition. The learned Single Judge disposed of the writ petition directing the State to refund the earnest money deposited. In a subsequent tender process, the appellant before the Supreme Court was the highest bidder. The highest bidder in the second tender process sought refund of his earnest money for the reason that *tendu* leaves, the subject matter of tender, a perishable item, had already perished and become rotten with the result that its value had become useless by lapse of time. The appellant was called upon to execute an agreement

(39) (2000) 4 SCC 342

in terms of the bid accepted and deposit the remaining tender price. Apprehending that the authorities might proceed to forfeit his earnest money and blacklist him, the highest bidder in the second bid process filed a writ petition. It was found that because of the interim order, the highest bidder in the second process could not take benefit of acceptance of his bid. In these circumstances, the Court observed as under:-

> *"7. In the facts and circumstances of the case, the maxim of equity, namely,* actus curiae neminem gravabit - *an act of the court shall prejudice no man, shall be applicable. This maxim is founded upon justice and good sense which serves a safe and certain guide for the administration of law. The other maxim is, lex non cogit ad impossibilia - the law does not compel a man to do what he cannot possible perform. The law itself and its administration is understood to disclaim as it does in its general aphorisms, all intention of compelling impossibilities, and the administration of law must adopt that general exception in the consideration of particular cases. The applicability of the aforesaid maxims has been approved by this Court in Raj Kumar Dey v. Tarpada Dey (1987)4 SCC 398 and Gursharan Singh v. New Delhi Municipal Committee (1996)2 SCC 459."*

(38) In ***Jamal Uddin Ahmad v. Abu Saleh Najamuddin and another(40),*** the Court was examining Section 81 of the Representation of the People Act, 1951, dealing with the presentation of an election petition. The Court referred to the maxim *Cursus curiae est lex curiae - The practice of the court is the law of the court.* It was held that every Court is the guardian of its own records and the master of its own practice and where a practice has existed, it is convenient, except in cases of extreme urgency and necessity to adhere to it, because it is the practice, even though no reason can be assigned for it; for an inveterate practice in law generally stands upon principles that are founded in justice and convenience. It was also held that strange consequences would follow if the reasoning given by the Gauhati High Court in ***Utpal Dutta v. Indra Gogoi*** [Misc. Case No. 13/2001 in E.P.

(40) (2003) 4 SCC 257

No.7/2001 decided on 29.8.2002) is to be accepted. In the said case, Rule 1 of Chapter VIII-A of the Gauhati High Court Rules, was struck down as *ultra vires* Sections 80, 80A and 81 of the Representation of People Act, 1951 read with Article 329 of the Constitution. It was thus, held that all the election petitions presented to the Stamp Reporter of the Gauhati High Court would be *non est.* It was also observed as under:-

> *"21. Herbert Broom states in the preface to his celebrated work on* Legal Maxims - *"In the legal science, perhaps more frequently than in any other, reference must be made to first principles." The fundamentals or the first principles of law often articulated as the maxims are manifestly founded in reason, public convenience and necessity. Modern trend of introducing subtleties and distinctions, both in legal reasoning and in the application of legal principles, formerly unknown, have rendered an accurate acquaintance with the first principles more necessary rather than diminishing the values of simple fundamental rules. The fundamental rules are the basis of the law; may be either directly applied, or qualified or limited, according to the exigencies of the particular case and the novelty of the circumstances which present themselves. In Dhannalal v. Kalawatibai (2002) 6 SCC 16."*

(39) In ***Industrial Finance Corpn. of India Ltd.'s case*** *(supra),* the court examined *latin* maxims contemplating that the law does not compel a man to do that which he cannot possibly perform and that where the law creates a duty or charge, and the party is disabled to perform it, without any default in him, and has no remedy over, there the law will in general excuse him. The Court discussed the maxim in the following manner:-

> *"30. The Latin maxim referred to in the English judgment lex non coqit ad impossibilia also expressed as* impotentia excusat legem *in common English acceptation means, the law does not compel a man to do that which he cannot possibly perform. There ought always thus to be an invincible disability to perform the obligation and the same is akin to the Roman maxim nemo*

tenetur ad impossibile. In Broom's Legal Maxims the state of the situation has been described as below:

"It is, then, a general rule which admits of ample practical illustration, that impotentia excusat legem; where the law creates a duty or charge, and the parry is disabled to perform it, without any default in him, and has no remedy over, there the law will in general excuse him (t): *and though impossibility of performance is in general no excuse for not performing an obligation which a party has expressly undertaken by contract, yet when the obligation is one implied by law, impossibility of performance is a good excuse. Thus in a case in which consignees of a cargo were prevented from unloading a ship promptly by reason of a dock strike, the Court, after holding that in the absence of an express agreement to unload in a specified time there was implied obligation to unload within a reasonable time, held that the maxim* lex non cogit ad impossibilia *applied, and Lindley, L.J., said: We have to do with* implied *obligations, and I am not aware of any case in which an obligation to pay damages is ever cast by implication upon a person for not doing that which is rendered impossible by causes beyond his control."*

31. This effort to search out the meaning of the Latin maxim has been only to identify the situation which prompted the learned Judge of the Queen's Bench to come to the conclusion as above. There, thus, has to be an impossibility of performance of the obligation. The fact situation presently under consideration before us thus has to be assessed whether in fact there was any such impossibility or not. Let us be quite candid about laying down the principles that rights created under statute cannot stand obliterated without cogent reasons and not on mere frivolity. In any event, the right conferred in terms of a deed of guarantee cannot but be stated to be an independent right which stands recognised by the statute and thus cannot in any manner be whittled down without a just cause. Baily v. De Crespigny, (1869)4 QB 180, in our view does not lend any assistance in the fact situation of the matter under consideration. There was in

fact an impossibility of performance which prompted the Court to excuse the guarantor from its performance by reason of the impossibility of the situation and for reasons that the same stood beyond the control of the guarantor. The situation presently, however, is not so.'

(40) The Constitution Bench judgment in ***Navinchandra Mafatlal v. CIT(41),*** held that the word appearing in a Constitution must not be construed in any narrow and pedantic sense and that each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be said to be comprehended in it.

"6. It should be remembered that the question before us relates to the correct interpretation of a word appearing in a Constitution Act which, as has been said, must not be construed in any narrow and pedantic sense. Gwyer, C.J. in In re The Central Provinces and Berar Act, 14 of 1938 observed at pp. 36-37 that the rules which apply to the interpretation of other statutes apply equally to the interpretation of a constitutional enactment subject to this reservation that their application is of necessity conditioned by the subject-matter of the enactment itself. It should be remembered that the problem before us is to construe a word appearing in Entry 54 which is a head of legislative power. As pointed out by Gwyer, C.J. in United Provinces v. Atiqa Begum at p. 134 none of the items in the Lists is to be read in a narrow or restricted sense and that each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be said to be comprehended in it. It is, therefore, clear — and it is acknowledged by Chief Justice Chagla — that in construing an entry in a List conferring legislative powers the widest possible construction according to their ordinary meaning must be put upon the words used therein. Reference to legislative practice may be admissible for cutting down the meaning of a word in order to reconcile two conflicting provisions in two legislative Lists as was done in C.P. and Berar Act case *or to enlarge their*

(41) AIR 1955 SC 58

ordinary meaning as in State of Bombay v. F.N. Balsara, AIR 1951 SC 318. The cardinal rule of interpretation, however, is that words should be read in their ordinary, natural and grammatical meaning subject to this rider that in construing words in a constitutional enactment conferring legislative power the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude."

(41) In the light of the judgments referred to by the learned counsel for the parties, we find that the basic rule of interpretation is that the words should be given their ordinary natural grammatical meaning subject to the rider that in construing words in a constitutional enactment conferring legislative power the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude. The beneficial legislation should receive liberal interpretation so as to advance the object of the statute.

(42) The decision rendered by a Bench of the Supreme Court is binding on the Bench of co-equal strength. However, in the event of any reservation, the matter can be referred to the Larger Bench by a Bench of the equal strength. However, it is the Larger Bench, which can take a view contrary to the view expressed by a Bench of lesser Quorum. But the judgments of the Supreme Court are binding on the High Courts in terms of Article 141 of the Constitution of India. Mere fact that an argument was not raised or reasoning is fallacious in the opinion of the higher Court or a particular provision of the statute was not specifically noticed by the Bench, is not a ground on the basis of which the binding precedent can be ignored. The proper course for the High Court is to find out and follow the opinion expressed by the Larger Bench in preference to those of the smaller Benches of the Court. The opinion expressed by the Larger Bench is to be arrived at but by not reading a line here and there but on reading of the entire judgment. In case, there is a conflict between the judgments of the co-equal strength Benches of the Supreme Court, both being binding precedents, it is open to the High Court to follow the judgments, which it considers appropriate.

(43) A Full Bench of this Court in ***M/s Indo Swiss Time Limited Dundahera v. Umrao and others(42),*** has examined the issue as to which of the contradictory judgments passed by the Superior Court, is to be followed. It was held that the High Court must follow the judgment which appears to it to lay down the law more elaborately and accurately. The Court held as under:-

> *"23. . . . .When judgments of the Superior Court are of co-equal Benches and therefore of matching authority then their weight inevitably must be considered by the rationale and the logic thereof and not by the mere fortuitous circumstances of the time and date on which they were rendered. It is manifest that when two directly conflicting judgments of the superior Courts and of equal authority are extent then both of them cannot be binding on the Courts below. Inevitably a choice though a difficult one, has to be made in such a situation. On principle it appears to me that the High Court must follow the judgment which appears to it to lay down the law more elaborately and accurately. The mere incidence of time whether the judgments of co-equal Benches of the Superior Court are earlier or later is a consideration which appears to me as hardly relevant."*

(44) With the basic principles of interpretation of the statues having been noticed, we proceed to decide the scope of Section 24 of the Act. The period of five years for lapsing of proceedings of land acquisition commences after the announcing of the Award. The question which arises is if an order has been passed by a Court restraining the State and/or its Agencies, from taking possession, whether the act of the State in not taking possession would still lead to lapsing of the proceedings.

(45) It is no doubt correct that Section 24 introduces a legal fiction by which the acquisition proceedings stand lapsed by operation of law *i.e.* where the award has been made five years or more prior to the commencement of the Act, but the physical possession of the land has not been taken or compensation has not been paid. While interpreting sub-clause (2) of Section 24 of the Act, one needs to

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(42) 1981 PLR 335

examine the process of rendering of the Award under the Old Act and the provisions of taking of possession or of deposit of the compensation. Under the Old Act, an Award has to be announced within a period of two years from the date of publication of the declaration under Section 6 of the said Act. However, *Explanation* to Section 11A of the Act contemplates that the period during which any action or proceedings to be taken in pursuance of such declaration are stayed by an order of Court, such period shall be excluded. Therefore, while computing the period of not taking possession or of not paying compensation, the period of stay in terms of Section 11A of the old Act was required to be excluded. Though Section 11A of the Old Act deals with the exclusion of time in rendering of Award in the event of interim order granted by the Courts but an interim order protecting possession even after the Award was announced would not render the proceedings unjustified or illegal. Reference be made to ***Yusufbhai Noormohmed Nendoliya v. State of Gujarat(43),*** wherein the Court held that the stay of dispossession granted even after award would not prevent the state from taking possession. It held:-

> *"8. The said* Explanation *is in the widest possible terms and, in our opinion, there is no warrant for limiting the action or proceedings referred to in the* Explanation *to actions or proceedings preceding the making of the award under Section 11 of the said Act. In the first place, as held by the learned Single Judge himself where the case is covered by Section 17, the possession can be taken before an award is made and we see no reason why the aforesaid expression in the* Explanation *should be given a different meaning depending upon whether the case is covered by Section 17 or otherwise. On the other hand, it appears to us that the Section 11-A is intended to confer a benefit on a landholder whose land is acquired after the declaration under Section 6 is made in cases covered by the* Explanation. *The benefit is that the award must be made within a period of two years of the declaration, failing which the acquisition proceedings would lapse and the land would revert to the landholder. In order to get the benefit of the said provision what is required, is that the*

(43) (1991) 4 SCC 531

landholder who seeks the benefit must not have obtained any order from a court restraining any action or proceeding in pursuance of the declaration under Section 6 of the said Act so that the Explanation covers only the cases of those landholders who do not obtain any order from a court which would delay or prevent the making of the award or taking possession of the land acquired. In our opinion, the Gujarat High Court was right in taking a similar view in the impugned judgment."

(46) An order of stay of dispossession or proceedings in one case empowers the State Government not to take possession from all the land owners who were not even parties in a writ petition. An order of stay of possession or proceedings even after announcing of Award under the old Act, has to be excluded even in the absence of any specific reference to excluding the period of stay granted under the old Act (see ***Abhey Ram's case*** & ***Om Parkash's case*** *(supra).*

(47) After the Act, the first judgment examining the scope of Section 24 of the Act, in point of time rendered by the Supreme Court is ***Pune Municipal Corporation's case*** *(supra)*. That was a case where the Municipal Corporation did not deposit the amount of compensation as contemplated in the Statute with the Court, but deposited with the Land Acquisition Collector. Such compensation was, thus, not paid to the land owners for a period of five years prior to the commencement of the Act as mandated under the Old Act. Therefore, the judgment in ***Pune Municipal Corporation's case*** *(supra)*, does not provide any help to the arguments advanced as it was a case of non deposit of compensation in terms of the statute for a period of more than five years.

(48) In ***Bharat Kumar's case*** *(supra),* there was no interim protection granted to the land owners in a writ petition filed before this Court. The Hon'ble Supreme Court stayed dispossession of the petitioner from the residential structure in the acquired land only. Therefore, even the said judgment does not provide any assistance to the argument raised by the learned counsel for the land owners for the reason that even in the absence of any interim protection; the possession

was not taken by the State. Therefore, the said order does not advance the arguments raised by learned counsel for the landowners.

(49) In ***Bimla Devi's case*** *(supra),* there was an interim order of stay of dispossession granted on 12.1.1994 during the pendency of the writ petition (CWP No. 512 of 1994) and the order of status quo was granted in SLP by the Supreme Court.

(50) In ***Shiv Raj's case*** *(supra),* 10 appeals of Union of India, were preferred against the judgment of the Delhi High Court, wherein the High Court allowed the writ petition filed by the land owners on 11.5.2007. There was no interim order against the order passed by the Delhi High Court quashing the acquisition proceedings. Since the possession was not taken for all these years, the appeals were dismissed, *inter alia,* for the reason that the earlier orders of the Supreme Court binds the State Government and also for the reason, the possession was not taken for more than five years. In an another appeal bearing CA No. 1579 of 2010 preferred by Vinod Kapur, decided along with ***Shiv Raj's case*** *(supra),* the writ petition filed by the landowners was dismissed by the Delhi High Court on 17.12.2004 and the review petition on 27.7.2007. There was a stay of dispossession when the writ petition was pending. In SLP, there was no interim order granted in favour of the land owners. The Court, therefore, allowed the appeal of the land owners for the reason that even after the lapse of seven years, without any stay of proceedings, no action was taken by the respondents, therefore, the acquisition proceedings lapsed.

(51) In ***Sree Balaji Nagar Residential Association' case*** *(supra)*, there was an interim order of stay of dispossession granted on 17.2.2005, but the writ petition was dismissed on 27.4.2007. There was an interim order in appeal by the Supreme Court. However, relying upon the earlier judgment in ***Pune Municipal Corporation's case*** and referring to ***Padma Sundara Rao's case*** *(supra),* it was held that the proceedings have lapsed.

(52) Thus, in fact the Supreme Court has granted benefit to the land owners even though there was an interim order against the State, in ***Bimla Devi's case*** and in ***Balaji's case*** *(supra)*. In ***Bimla Devi's case*** *(supra),* the Court followed the earlier view taken in ***Pune Municipal***

Corporation's case *(supra),* to return a finding that since the compensation has not been paid nor deposited in the Court and the physical possession is with the land owners, therefore, the acquisition proceedings have lapsed. The fact that there was or there was not any interim order was neither brought to the notice of the Court nor discussed.

(53) The attention of the Court in the above judgments was not brought to the binding precedents of the Seven-Judge Bench Judgments in ***A.R. Antulay v. R.S. Nayak and another(44),*** holding that the mistake of the Court shall not prejudice any person. The court applied the maxim *nunc pro tunc,* that if owing to the delay in what the court should, otherwise, have done earlier but did later, a party suffers owing to events occurring in the interregnum, the Court has the power to remedy it. The area of operations of the maxim is generally, procedural. The Court held as under:-

> *"139. Re: Contention (h) : The argument is that the appellant has been prejudiced by a mistake of the Court and it is not only within the power but a duty as well, of the Court to correct its own mistake, so that no party is prejudiced by the Court's mistake: Actus Curiae Neminem Gravabit.*
>
> *I am afraid this maxim has no application to conscious conclusions reached in a judicial decision. The maxim is not a source of a general power to reopen and rehear adjudications which have otherwise assumed finality. The maxim operates in a different and narrow area. The best illustration of the operation of the maxim is provided by the application of the rule of* nunc pro tunc. *For instance, if owing to the delay in what the court should, otherwise, have done earlier but did later, a party suffers owing to events occurring in the interregnum, the Court has the power to remedy it. The area of operations of the maxim is generally, procedural. Errors in judicial findings, either of facts or law or operative decisions consciously arrived at as a part of the judicial exercise cannot be interfered with by resort to this maxim. There is no substance in contention (h)."*

(44) AIR 1988 SC 1531

(54) The Larger Bench has categorically held that the area of operation of the maxim is procedural and not to interfere with the judicial findings either of fact or law.

(55) A three-Judge Bench judgment reported as ***Dau Dayal v. State of Uttar Pradesh(45),*** dealt with the launching of prosecution under Section 15 of the Merchandise Marks Act, 1889 which provided that no prosecution shall be commenced after expiration of one year after the discovery of the offence by the prosecutor. It was held that the complainant is required to resort to the Court within one year of discovery of the offence and if such complaint is presented within said period, the same would be within limitation. It was further held that it will be an unfortunate state of the law if the trader whose rights had been infringed and who takes up the matter promptly before the Criminal Court is nevertheless denied redress owing to the delay in the issue of process which occurs in Court. It was held as under:-

> *"It will be noticed that the complainant is required to resort to the Court within one year of the discovery of the offence if he is to have the benefit of proceeding under the Act. That means that if the complaint is presented within one year of such discovery, the requirements of S. 15 are satisfied. The period of limitation, it should be remembered, is intended to operate against the complainant and to ensure diligence on his part in prosecuting his rights, and not against the Court. Now, it will defeat the object of the enactment and de-Drive traders of the protection which the law intended to give them, if we were to hold that unless process is issued on their complaint within one year of the discovery of the offence, it should be thrown out. It will be an unfortunate state of the law if the trader whose rights had been infringed and who takes up the matter promptly before the Criminal Court is, nevertheless, denied redress owing to the delay in the issue of process which occurs in Court."*

(45) AIR 1959 SC 433

(56) Such decision was quoted with approval by the Constitution Bench in ***Sarah Mathew v. Institute of Cardio Vascular Diseases(46),*** referring to the maxim *actus curiae neminem gravabit,* the Court observed as under:

> *'29. The conclusion reached by us is reinforced by the fact that the Law Commission in clause 24.20 of its Report, which we have quoted hereinabove, referred to Dau Daval where the three-Judge Bench of this Court was dealing with a Special Act* i.e. *the Merchandise Marks Act, 1889. Section 15 of the Merchandise Marks Act, 1889 stated that no prosecution shall be commenced after expiration of one year after the discovery of the offence by the prosecution. The contention of the appellant was that the offence was discovered on 26/4/1954 when he was arrested, and that, in consequence, the issue of process on 22/7/1955, was beyond the period of one year provided under Section 15 of the Merchandise Marks Act, 1889 and that the proceedings should therefore be quashed as barred by limitation. While repelling this contention, the three-Judge Bench of this Court observed as under:-*
>
> "6. xx xx xx"
>
> *Though, this Court was not concerned with the meaning of the term 'taking cognizance', it did not accept the submission that limitation could be made dependent on the act of the Magistrate of issuing process. It held that if the complaint was filed within the stipulated period of one year, that satisfied the requirement. The complaint could not be thrown out because of the Magistrate's act of issuing process after one year.*
>
> *37. We are inclined to take this view also because there has to be some amount of certainty or definiteness in matters of limitation relating to criminal offences. If, as stated by this Court, taking cognizance is application of mind by the Magistrate to the suspected offence, the subjective element comes in. Whether a Magistrate has taken cognizance or not will depend on facts and*

(46) (2014) 2 SCC 62

circumstances of each case. A diligent complainant or the prosecuting agency which promptly files the complaint or initiates prosecution would be severely prejudiced if it is held that the relevant point for computing limitation would be the date on which the Magistrate takes cognizance. The complainant or the prosecuting agency would be entirely left at the mercy of the Magistrate, who may take cognizance after the limitation period because of several reasons; systemic or otherwise. It cannot be the intention of the Legislature to throw a diligent complainant out of the court in this manner. Besides, it must be noted that the complainant approaches the court for redressal of his grievance. He wants action to be taken against the perpetrators of crime. The courts functioning under the criminal justice system are created for this purpose. It would be unreasonable to take a view that delay caused by the court in taking cognizance of a case would deny justice to a diligent complainant. Such an interpretation of Section 468 Cr.P.C. would be unsustainable and would render it unconstitutional. It is well settled that a court of law would interpret a provision which would help sustaining the validity of the law by applying the doctrine of reasonable construction rather than applying a doctrine which would make the provision unsustainable and ultra vires the Constitution. (U.P. Power Corpn. Ltd. v. Ayodhya Prasad Mishra, (2008)10 SCC 139.)

38. The conclusion reached by us is reinforced by the fact that the Law Commission in Para 24.20 of its Forty-second Report, which we have quoted hereinabove, referred to Dau Dayal v. State of Uttar Pradesh, 1959 SC 433, where the three-Judge Bench of this Court was dealing with a special Act i.e. *the Merchandise Marks Act, 1889. Section 15 of the Merchandise Marks Act, 1889 stated that no prosecution shall be commenced after expiration of one year after the discovery of the offence by the prosecution. The contention of the appellant was that the offence was discovered on 26.4.1954 when he was arrested, and that, in consequence, the issue of process on 22.7.1955, was beyond the period of one year provided under Section 15 of the*

Merchandise Marks Act, 1889 and that the proceedings should therefore be quashed as barred by limitation. While repelling this contention, the three-Judge Bench of this Court observed as under: (AIR p. 435, para 6)

> *"6. It will be noticed that the complainant is required to resort to the court within one year of the discovery of the offence if he is to have the benefit of proceeding under the Act. That means that if the complaint is presented within one year of such discovery, the requirements of Section 15 are satisfied. The period of limitation, it should be remembered, is intended to operate against the complainant and to ensure diligence on his part in prosecuting his rights, and not against the court. Now, it will defeat the object of the enactment and deprive traders of the protection which the law intended to give them, if we were to hold that unless process is issued on their complaint within one year of the discovery of the offence, it should be thrown out. It will be an unfortunate state of the law if the trader whose rights had been infringed and who takes up the matter promptly before the criminal court is, nevertheless, denied redress owing to the delay in the issue of process which occurs in court."*

Though this Court was not concerned with the meaning of the term "taking cognizance", it did not accept the submission that limitation could be made dependent on the act of the Magistrate of issuing process. It held that if the complaint was filed within the stipulated period of one year, that satisfied the requirement. The complaint could not be thrown out because of the Magistrate's act of issuing process after one year.

39. As we have already noted in reaching this conclusion, light can be drawn from legal maxims. Legal maxims are referred to in Bharat Damodar Kale & Anr. v. State of Andhra Pradesh, (2003) 8 SCC 599, Japani Sahoo v. Chandra Sekhar Mohanty, (2007)7 SCC 394 and Radhamanohari (Smt.) v. Vanka Venkata, (1993)3 SCC 4. *The object of the criminal law is to punish*

perpetrators of crime. This is in tune with the well-known legal maxim nullum tempus aut locus occurrit regi, *which means that a crime never dies. At the same time, it is also the policy of law to assist the vigilant and not the sleepy. This is expressed in the Latin maxim* vigilantihus et non dormientibus, jura subveniunt. *Chapter XXXVI CrPC which provides limitation period for certain types of offences for which lesser sentence is provided draws support from this maxim. But, even certain offences such as Section 384 or 465 IPC, which have lesser punishment may have serious social consequences. The provision is, therefore, made for condonation of delay. Treating date of filing of complaint or date of initiation of proceedings as the relevant date for computing limitation under Section 468 of the Code is supported by the legal maxim* actus curiae neminem gravabit *which means that the act of court shall prejudice no man. It bears repetition to state that the court's inaction in taking cognizance* i.e. *court's inaction in applying mind to the suspected offence should not be allowed to cause prejudice to a diligent complainant. Chapter XXXVI thus presents the interplay of these three legal maxims. The provisions of this Chapter, however, are not interpreted solely on the basis of these maxims. They only serve as guiding principles."*

(57) In view of the maxim *actus curiae neminem gravabit* or even in its absence, any interim order granted by the Court cannot prejudice any rights of the parties. It is necessary for the proper working of the justice delivery system. Once the Court has passed an order staying dispossession, the State could not take possession. If an order of the Court disables a person to take any action, the doctrine of *nemo tentur ad impossible* would be applicable, that is the law in general excuse a party, which is disabled to perform a duty and impossibility of performance of a duty is a good excuse. Still further, the latin maxim *lex non cogit ad impossibilia,* that is the law does not compel a man to do that which he cannot possibly perform. The maxim *impotentia excusat legem,* that is where the law creates a duty or charge and the party is disabled to perform it, without any default in him and has no remedy over, there the law will in general excuse him. Since, it was

impossible for the State to take possession, therefore, the consequences of an interim order cannot be used against the State.

(58) Even if the maxims are not extended to the interpretation of the present provisions, the general principle is that the rights of the parties have to be examined on the day, when it approaches the Court and that delay in the decision would not harm any person. The pendency of a *lis* cannot be permitted to confer any advantage on any of the parties. In ***Suresh Chand v. Gulam Chisti(47),*** a three Judge Bench referred to the ***Atma Ram Mittal's*** *(supra),* case and held that:-

> *"17.....Thirdly such an interpretation would run counter to the view taken by this Court in* Atma Ram Mittal v. Ishwar Singh Punia *(1988) 4 SCC 284 wherein it was held that no man can be made to suffer because of the court's fault or court's delay in the disposal of the suit. To put it differently if the suit could be disposed of within the period of 10 years, the tenant would not be entitled to the protection of Section 39 but if the suit is prolonged beyond 10 years the tenant would be entitled to such protection. Such an interpretation would encourage the tenant to protract the litigation and if he succeeds in delaying the disposal of the suit till the expiry of 10 years he would secure the benefit of Section 39, otherwise not. We are, therefore, of the opinion that it is not possible to uphold the argument".*

(59) A Constitution Bench in ***Shyam Sunder v. Ram Kumar(48),*** held that the substantive rights of the parties are to be examined on the date of the suit unless the legislation makes such right retrospective.

> *" 28. From the aforesaid decisions the legal position that emerges is that when a repeal of an enactment is followed by a fresh legislation, such legislation does not affect the substantive rights of the parties on the date of the suit or adjudication of the suit unless such a legislation is retrospective and a court of appeal cannot take into consideration a new law brought into existence after the judgment appealed from has been rendered*

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(47) (1990) 1 SCC 593

(48) (2001) 8 SCC 24

because the rights of the parties in an appeal are determined under the law in force on the date of the suit.....We are further of the view that there is a presumption against the retrospective operation of a statute and further a statute is not to be construed to have a greater retrospective operation than its language renders necessary, but an amending Act which affects the procedure is presumed to be retrospective, unless the amending Act provides otherwise.....We are respectfully in agreement with the view expressed in the said decision and hold that the substituted Section 15 in the absence of anything in it to show that it is retrospective, does not affect the right of the parties which accrued to them on the date of the suit or on the date of passing of the decree by the court of first instance. We are also of the view that the present appeals are unaffected by change in law insofar it related to determination of the substantive rights of the parties and the same are required to be decided in the light of the law of pre-emption as it existed on the date of passing of the decree".

(60) Section 114 of the Act repeals the Old Act and also the saving of rights. The same 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."

(61) A perusal of such provision shows that the Act has not been given retrospective effect. The repeal of the Old Act under sub-section (1) is subject to the provisions contained in the Act and does not prejudice or affect the general application of Section 6 of the General Clauses Act, 1897. Such provisions have been interpreted by the Hon'ble Supreme Court in the ***Pune Municipal Corporation's case*** *(supra),* to hold that repeal of the Old Act is subject to the provisions of Section 24 of the Act. The Court held to the following effect:-

"21. The argument on behalf of the Corporation that the subject land acquisition proceedings have been concluded in all respects under the 1894 Act and that they are not affected at all in view of Section 114(2) of the 2013 Act, has no merit at all, and is noted to be rejected. Section 114(1) of the 2013 Act repeals 1894 Act. Sub-section (2) of Section 114, however, makes Section 6 of the General Clauses Act, 1897 applicable with regard to the effect of repeal but this is subject to the provisions in the 2013 Act. Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied. The applicability of Section 6 of the General Clauses Act being subject to Section 24(2), there is no merit in the contention of the Corporation."

(62) Thus, subject to the lapsing of the proceedings in the event of the failure of the State to take possession or payment of compensation, the provisions of the Old Act, shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the Old Act. Therefore, the proceedings, which were subject matter of stay under the Old Act, would be governed by the provisions of the Old Act itself.

(63) In the face of the judgments of the Hon'ble Supreme Court in ***Bharat Kumar's case, Bimla Devi's case*** and ***Balaji's case*** *(supra),* we find it difficult to follow the other judgments on the abstract proposition of law. In view of the aforesaid judgments to which we are bound, we hold that irrespective of any interim orders passed by the Court, the proceedings shall stand lapsed.

(64) In ***Mahender Yadav v. State of Haryana*** (CWP No. 12066 of 2014), the issue required to be examined is whether after the writ petition challenging the acquisition stands dismissed, wherein there was an interim order of stay, whether the land owner(s) can take benefit of Section 24 of the Act. The findings recorded above, shall be *mutatis-mutandis* applicable to all cases, where the writ petitions have also

been dismissed. Section 24 of the Act does not carve out any exception in respect of the writ petitions, which have been dismissed earlier.

(65) The questions of law having been answered in the manner discussed above, the writ petitions be posted for hearing before the Bench as per Roster.

Sd/- Hemant Gupta, J.; Sd/- G.S. Sandhawalia, J.

KULDIP SINGH, J.

(66) I have the privilege of going through the judgment dictated by brother Hemant Gupta, J.

(67) With utmost regard, I am unable to agree with some of the observations made by my learned brother Hemant Gupta, J. in his judgment above, which prompted me to write a separate judgment. In addition to this, I am also unable to agree with the view of my learned brother that 'the proceedings, which was subject matter of stay under the old Act would be governed by the provisions of the old Act itself'. In my view, the reference made to the Full Bench needs to be answered in clear terms, leaving no scope for further interpretation of the judgment and consequent use or misuse.

(68) In CWP No. 6860 of 2007 titled as Maharana Partap Charitable Trust v. State of Haryana and another, a Division Bench, of which one of us (Hemant Gupta, J.) was the member, while discussing Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the 2013 Act'), considered the judgment of the Hon'ble Supreme Court passed in Civil Appeal No. 5478 of 2014 titled as ***Union of India and others v. Shiv Raj and others*** and noticed that no argument was raised before the Hon'ble Supreme Court in ***Shiv Raj's case*** *(supra)* that an act of the Court shall not prejudice any person. Consequently, following reference was made:-

> *"In view of the fact that principle of law* 'actus curiae neminem gravabit *has not been brought to the notice of the Court, as no argument based upon such principle has been raised or considered, we think that the issue as to whether the period of*

stay granted by this Court is liable to be excluded for determining the period of five years requires to be examined by a Larger Bench."

(69) In CWP No. 12066 of 2014 titled as Mahinder Yadav *(supra)* another Division Bench of this Court made the following reference for determination by the Larger Bench:-

"(6) It appears to us that the question 'whether the benefit of Section 24(2) of the 2013 Act is admissible even to those land-owners whose writ petitions have already been dismissed expressly or impliedly' and who by virtue of interim stay did not permit the State to take possession of their acquired land or declined to draw compensation though offered by the Collector, too requires consideration by the Larger Bench."

(70) For a while, even if the case law is not taken into consideration and the plain language of Section 24(2) of the 2013 Act is examined, it comes out that the language of section itself is very clear and capable of no other interpretation than given in the section itself. The section is reproduced below:-

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) xx xx xx

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 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."

(71) It shows that sub-section (2) of Section 24 of the 2013 Act takes care of the cases where the acquisition proceedings are deemed to have lapsed when certain conditions, as mentioned in said section, are met. Sub-section (1) of Section 24 of the 2013 Act deals with the cases under the Land Acquisition Act No. 1 of 1894. Now, the question is as to whether the effect of stay by Courts was not within the notice of the Legislature, while passing the said Act ? The reply is in negative. The wisdom of the Legislature has to be presumed. Sections 6 and 11-A of the 1894 Act were already there dealing with the cases where the proceedings are delayed due to stay orders by the Courts. Even in the 2013 Act, there are certain specific provisions where the time consumed in the stay order is excluded. The same is specifically provided in proviso to Section 19(7) and explanation to Section 69 of the 2013 Act. It shows that the Legislature was aware about the injunction orders being/have been passed by the Courts and effect thereof. The fact is that the effect of the injunction orders by the Courts was specifically omitted, while enacting provisions of Section 24(2) of Act of 2013. A reading of provisions of Section 24(2) of the 2013 Act shows that the Legislature did not want that the period consumed during injunction orders granted by the Courts, which delayed the action of the State in completing the acquisition, should be taken into consideration. The 2013 Act is a social welfare legislation, enacted for the benefit of the farmers, whose land was indiscriminately acquired by the State Governments and then misused for some other purposes.

(72) Reverting to the case law on the point, the 3 Judges Bench in ***Pune Municipal Corporation and another v. Harakchand Misirimal Solani(49),*** considered that whether in the said case, the conditions laid down in Section 24 of the 2013 Act are met regarding the deposit of compensation. The Hon'ble Supreme Court has observed as under:-

(49) (2014) 3 SCC 183

"10. Insofar as sub-section (1) of Section 24 is concerned, it begins with non obstante *clause. By this, Parliament has given overriding effect to this provision over all other provisions of 2013 Act. It is provided in clause (a) that where the land acquisition proceedings have been initiated under the 1894 Act but no award under Section 11 is made, then the provisions of 2013 Act shall apply relating to the determination of compensation. Clause (b) of Section 24(1) makes provision that where land acquisition proceedings have been initiated under the 1894 Act and award has been made under Section 11, then such proceedings shall continue under the provisions of the 1894 Act as if that Act has not been repealed.*

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 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 land holdings 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."*

(73) The applicability of Section 6 of the General Clauses Act, 1897, was also considered and it was held that Section 6 of the General

Clauses Act, 1897, is subject to Section 24(2) of the 2013 Act. It was observed by the Hon'ble Supreme Court as under:-

> *"21. The argument on behalf of the Corporation that the subject land acquisition proceedings have been concluded in all respects under the 1894 Act and that they are not affected at all in view of Section 114(2) of the 2013 Act, has no merit at all, and is noted to be rejected. Section 114(1) of the 2013 Act repeals the 1894 Act. Sub-section (2) of Section 114, however, makes Section 6 of the General Clauses Act, 1897 applicable with regard to the effect of repeal but this is subject to the provisions in the 2013 Act. Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of the 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied. The applicability of Section 6 of the General Clauses Act being subject to Section 24(2), there is no merit in the contention of the Corporation."*

(74) ***Bimla Devi and others v. State of Haryana and others(50),*** was delivered by two Judges Bench and so was ***Bharat Kumar Versus State of Haryana and another(51)***. ***Shiv Raj's*** **case** *(supra),* was delivered by three Judges Bench, wherein ***Bharat Kumar*** *(supra),* ***Bimla Devi*** *(supra)* and ***Pune Municipal Corporation*** *(supra)* cases were considered. In ***Shiv Raj's*** **case** *(supra),* the Hon'ble Supreme Court has observed as under:-

> *"22. The provisions of the Act 2013 referred to hereinabove have been considered by a three-Judge Bench of this court in* Pune *Municipal Corporation and another v. Harakchand Misirimal Solanki, (2014) 3 SCC 183. In the said case, the tenure-holders had challenged the acquisition proceedings before the Bombay*

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(50) (2014) 6 SCC 583

(51) (2014) 6 SCC 586

High Court by filing nine writ petitions, although two of such writ petitions had been filed before making the award and seven had been filed after the award. The land acquisition proceedings had been challenged on various grounds. The High Court allowed the writ petitions and quashed the land acquisition proceedings and issued certain directions including restoration of possession as in the said case the possession had been taken from the tenure-holders. This Court in the appeal filed by the authority for whose benefit the land had been sought to be acquired, and who had been handed over the possession as the land vested in the State, approached this Court but the Court did not enter into the merit regarding the correctness of the judgment impugned therein rather held that it was not so necessary to deal with the correctness of the judgment in view of the provisions of the 2013 Act which provide for re-compulsory acquisition of land from the very beginning."

(75) It was further observed in para-23 as under:-

"23. xx xx xx

> *"21. ...Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of the 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied. The applicability of Section 6 of the General Clauses Act being subject to Section 24(2), there is no merit in the contention of the Corporation."*

(76) In ***Shiv Raj's case*** *(supra),* a reference was also made to a Circular dated 14.3.2014, issued by the Government of India, Ministry of Urban Development, Delhi Division, wherein a clarification was issued on the basis of the legal opinion of the Solicitor General of India that the period spent during litigation is to be excluded while computing five years. It clearly culminates that the specific fact that in some cases

where the acquisition proceedings have been challenged there are stay orders by the Courts, was specifically brought to the notice of the Hon'ble Supreme Court. Moreover, an argument, which should have been raised, but was not raised, is deemed to have been considered and decided.

(77) Therefore, I am of the view that the maxim *'actus curiae neminem gravabit'*– an act of court shall prejudice no man or any other maxim has no application where the provisions of statute are unambiguous and clear. These maxims are not the substantive law and the aid of these maxims are taken in case of ambiguity. By the express provisions, the effect of these general maxims or abstract principles of law can always be overridden.

(78) However, during the arguments of the present reference, another judgment in case of ***Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others,*** Civil Appeal No. 8700 of 2013, was delivered by two Judges Bench of the Hon'ble Supreme Court on September 10, 2014. In ***Sree Balaji's case*** *(supra),* all the contentions, which need to be considered while deciding the present reference, were taken care of. The effect of the grant of stay by the Courts was specifically considered. ***Pune Municipal Corporation's case*** *(supra),* ***Padma Sundara Rao (dead) and others v. State of T.N, and others(52),*** and ***Shiv Raj's case*** *(supra)* were also specifically considered and adjudicated upon. A specific plea was raised that the State was prevented from taking physical possession of the land of the land-owners in view of the stay order passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court in ***Sree Balaji Nagar Residential Association case*** *(supra)* has observed as under:-

> *"8. There is no dispute that writ petitions were filed even before the making of award and interim orders have operated against the State of Tamil Nadu and, therefore, the State was not at fault in not taking physical possession of the concerned lands under acquisition. But the intention of the Legislature in enacting*

(52) (2002) 3 SCC 533

Section 24(2) of the 2013 Act will have to be culled out from its wordings and on the basis of other relevant provisions of this Act and the relevant case law for deciding whether the period of stay/ injunction is required to be excluded in computing the five years' period or not.

9. From a plain reading of Section 24 of the 2013 Act it is clear that Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceeding might have remained stayed on account of stay or injunction granted by any court. In the same Act, proviso to Section 19(7) in the context of limitation for publication of declaration under Section 19(1) and the Explanation *to Section 69(2) for working out the market value of the land in the context of delay between preliminary notification under Section 11 and the date of the award, specifically provide that the period or periods during which the acquisition proceedings were held up on account of any stay or injunction by the order of any court be excluded in computing the relevant period. In that view of the matter it can be safely concluded that the Legislature has consciously omitted to extend the period of five years indicated in Section 24(2) even if the proceedings had been delayed on account of an order of stay or injunction granted by a court of law or for any reason. Such* casus omissus *cannot be supplied by the court in view of law on the subject elaborately discussed by this Court in the case of Padma Sundara Rao (Dead) & Ors. v. State of T.N. and Ors. (2002) 3 SCC 533."*

(79) The Hon'ble Supreme Court also took into consideration that in Sections 6 and 11 of the 1894 Act, there was a specific provision for exclusion of period on account of stay orders granted by the Courts. The Hon'ble Supreme Court has further made the following observations in ***Sree Balaji Nagar Residential Association case*** *(supra)*:-

"11.....The law is trite that when the main enactment is clear and unambiguous, a proviso can have no effect so as to exclude

from the main enactment by implication what clearly falls within its express terms, as held by Privy Council in the case of Madras and Southern Mahratta Railway Co. Ltd. v. Bezwada Municipality, AIR 1944 PC 71 and by this Court in the case of CIT v. Indo Mercantile Bank Ltd., AIR 1959 SC 713.

12. The judgment of three Judges' Bench in the case of Harakchand Misirimal *(supra) has been followed by another Bench of three Judges in the case of* Union of India & Ors. etc. v. Shivrai and ors. etc. *(2014) 6 SCC 564. In paragraphs 25 and 26 of that judgment, this Court took notice of a clarification issued by the Government of India, Ministry of Urban Development, Delhi Division dated 14.03.2014. Part of the circular extracted in that case clearly shows that the period of five years or more in Section 24(2) of the 2013 Act has been prescribed with a view to benefit the land-losers and the period spent in litigation due to challenge to the award or the land acquisition proceedings cannot be excluded."*

(80) Therefore, I am of the considered view that the questions referred to the Full Bench by the two Division Benches of this Court have already been adjudicated upon by the Hon'ble Supreme Court in clear terms. The question of effect of interim stay or no stay has been considered and decided. Therefore, the judgments rendered in ***Pune Municipal Corporation's case*** *(supra),* ***Bharat Kumar's case*** *(supra)*, ***Bimla Devi's case*** *(supra)* and ***Shiv Raj's case*** *(supra)* cannot be distinguished on the ground that there was interim stay or no interim order of stay. In ***A.R. Antulay v. R.S. Nayak and another(53)***, the Court while applying the maxim *nunc pro tunc* made certain observations. The said maxim has also no application to the present case. It is further observed that as per Book 'Legal Maxims' by Herbert Broom, there are more than 103 legal maxims. I am of the considered view that these maxims cannot be invoked to circumvent the express provisions of law or any authoritative pronouncement of the superior court on the ground that one or other legal maxim was not considered

(53) AIR 1988 SC 1531

by the Court as all the points, which are raised or which should have been raised are deemed to have been raised, considered and decided. Under Article 141 of the Constitution of India, the law declared by the Hon'ble Supreme Court of India is binding on all the Courts.

(81) Moreover, Section 24(2) of the 2013 Act starts with *non obstante* clause, therefore, any other act having field in the matter would not have any overriding effect on the provisions of Section 24(2) of the 2013 Act. Thus, no question arises with regard to the application of old Act in cases where there was stay orders granted by various Courts. Therefore, I am of the considered view that as per law laid down in ***Pune Municipal Corporation's case*** *(supra)*, ***Shiv Raj's case*** *(supra)* and ***Sree Balaii Nagar Residential Association's case*** *(supra)*, Section 6 of the General Clauses Act, 1897, is subject to the provisions of Section 24(2) of the 2013 Act.

(82) In view of what has been discussed above, the point referred in CWP No. 6860 of 2007 titled as ***Maharana Partap Charitable Trust v. State of Haryana and another,*** is answered in the manner that the principle of *actus curiae neminem gravabit* has no application to the provisions of Section 24(2) of the 2013 Act and as per law laid down by the Hon'ble Supreme Court in ***Shiv Raj's case*** *(supra),* ***Pune Municipal Corporation's case*** *(supra)* and ***Sree Balaji Nagar Residential Association's case*** *(supra),* the period of stay granted by the Courts is not to be excluded for determining the period of 5 years under Section 24(2) of the 2013 Act.

(83) Similarly, to the question referred in CWP No. 12066 of 2014 titled as ***Mahinder Yadav v. State of Haryana and others,*** by another Division Bench, it is held that the benefit of Section 24(2) of the 2013 Act is applicable even to those land owners whose writ petitions have already been dismissed expressly or impliedly and who by virtue of interim stay did not permit the State to take possession of their acquired land or declined to draw compensation offered by the Collector, provided the conditions laid down in Section 24(2) of the 2013 Act are met.

Sd./- Kuldip Singh, J.

(84) In view of the majority opinion, the matter be placed before the appropriate Bench, as per Roster.

Sd./- Hemant Gupta, J.; Sd./- G.S. Sandhawalia, J.; Sd./- Kuldip Singh, J.

(85) At the request of the learned Advocates General, Punjab and Haryana, we deem it appropriate to grant a certificate for appeal to the States of Punjab and Haryana to the Supreme Court of India, in terms of Article 134A read with Article 132 of the Constitution of India, since the questions as to whether the period of interim order granted by a Court is liable to be excluded and also whether the land owner, whose writ petition, challenging the acquisition under the Land Acquisition Act, 1894 stands dismissed, can take benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in the light of the judgments referred to in the majority opinion, involve the substantial questions of law as to the interpretation of the power of the Court under the Constitution.

Sd./- Hemant Gupta, J.; Sd./- G.S. Sandhawalia, J.

(86) No substantial question of law is involved. Certificate for appeal is declined.

Sd./- Kuldip Singh, J.

V. Suri