



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



D.B. Civil Special Appeal (Writ) No. 658/2010

In

S.B. Civil Writ Petition No.3857/2003

Jaipur Development Authority Through Secretary Jaipur  
Development Authority, Ram Kishore Vyas Bhawan, Indira Circle,  
Jawahar Lal Nehru Marg, Jaipur

----Appellant-Respondent

Versus

1. Sai Darshan Hotels And Motels Private Limited, D-169,  
Malviya Nagar, Jaipur-302017 Through Its Director

-----Respondent-Petitioner

2. State Of Rajasthan Through Secretary, Urban  
Development And Housing Department, Government Of  
Rajasthan, Government Secretariat, Jaipur

----Proforma Respondent

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For Appellant	:	Mr. Amit Kuri with Mr. Ayush Sharma, Mr. Dharma Ram and Ms. Nandini Mirdha
For Respondents	:	Mr. Rajendra Prasad, Adv. General assisted by Mr. Sheetanshu Sharma and Ms. Dhriti Laddha Mr. Ajit Kumar Sharma, Senior Advocate assisted by Mr. Namo Narayan Sharma, Mr. Abhishek Kaushik, Ms. Khusboo Rathore, Mr. Rachit Sharma and Mr. Madhav Dadhich

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**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA**

**HON'BLE MRS. JUSTICE SANGEETA SHARMA**

**Judgment**

<b>Date of conclusion of Arguments</b>	<b>: 3<sup>rd</sup> February 2026</b>
<b>Date on which judgment was reserved</b>	<b>: 3<sup>rd</sup> February 2026</b>
<b>Whether the full judgment or only the operative part is pronounced</b>	<b>: Full judgment</b>
<b>Date of pronouncement</b>	<b>: 16th March, 2026</b>



**(Per Hon'ble the Acting Chief Justice)**

1. The present special appeal has a chequered history. The brief facts need to be noticed are that The Jaipur Development Authority (for short, "JDA") has preferred this special appeal challenging the order passed by the learned Single Judge dated 06.08.2009 whereby he allowed the writ petition and quashed the order dated 23.06.2009.
2. Before further going into the aspect regarding the aforesaid impugned judgment of the Single Bench, it would be appropriate to notice certain events which are pertinent for deciding the case.
3. On 21.08.1969, a notification was issued by the State under Section 4 of the Rajasthan Land Acquisition Act, 1953 (for short, "the Act of 1953") for acquiring the lands. On 02.08.1971, the land acquisition officer recommended acquisition of the land and after enquiry under Section 5A of the Act, on 12.04.1973, Section 6 notification was published acquiring land measuring 23 Bigha 16.5 Biswa in Khasra Nos. 35 to 43, 43/222, 43/223 and 43/224 in village Chainpura Tehsil Sanganer. Final award was passed by the land acquisition officer on 09.04.1981 awarding a sum of Rs.1,38,180/- each in favour of the Khatedars namely Adyodhya Prasad and Shri Daulat Babu sons of Shri Kashi Prasad Tiwari, who was the original Khatedar of the land in question. On 04.05.1981, the predecessor of JDA i.e. UIT sent a cheque of Rs.2,76,360/- to the land acquisition officer.
4. A reference was made to enhance the compensation to the Civil Court on 06.06.1981 under Section 18 of the Act. However, the enhanced compensation was not deposited. On 22.10.1983,



possession of the land was taken by the JDA, after it came into existence vide notification dated 12.09.1982.

5. The Khatedars also challenged the notification under Section 6 of the Act of 1953 before the High Court but the same was dismissed by the learned Single Judge. Special Appeals were filed but the same were also dismissed. Thereafter, SLP was preferred by the Khatedars before the Hon'ble Supreme Court challenging the notification but the same was also dismissed by common order dated 29.08.1983. The widow of the original Khatedar Smt. Savitri Devi had executed a sale deed with regard to the same property with one Hathroi Grah Nirman Sahkari Samiti on 05.07.1973. Hathroi Grah Nirman Sahkari Samiti submitted a writ petition being S.B. Civil Writ Petition No. 2090/1987 challenging the notification under Section 4 of the Act of 1953 which was dismissed by the High Court vide order dated 29.08.1996. Against the said judgment, D.B. Special Appeal was preferred, which too was dismissed on 16.09.1996. Thereafter, one Udit Gopal Beri and 10 other persons, who were members of the Society, filed writ petition being S.B. Civil Writ Petition No.95/1997 and the same came to be dismissed by this Court vide judgment dated 05.09.2000. Other members also filed writ petition being S.B. Civil Writ Petition No. 2222/1999 [Pramila Kumari and Ors. Vs. State of Rajasthan and Ors.] and S.B. Civil Writ Petition No. 2225/1999 [Smt. Anupama Agrawal and Ors. Vs. State of Rajasthan and Ors.] and the same were dismissed by the Single Bench on 29.10.2001. The plea for regularization was raised but the same was also rejected. The petitioner company came up and filed the petition before this Court stating that it had acquired the rights of the land



through the assignees of the Khatedars and submitted two applications on 29.03.2003 and 01.05.2003 to the State Government for securing allotment of 15% developed land in lieu of surrender of the land.

6. It is pertinent to note that the State Government, in view of the policy decision taken, issued a circular dated 13.12.2001 and issued directions to the effect that allotment of 15% developed land be made in lieu of monetary compensation for the land which had been surrendered under acquisition. In view of the said circular, the petitioner had submitted aforesaid applications dated 29.03.2003 and 01.05.2003.

7. However, when the facts pertaining to dismissal of the writ petition came to the notice of the Government, the order for reserving 15% land for allotment in lieu of compensation was kept in abeyance. A writ petition was, therefore, filed by the petitioner challenging the said order which came to be allowed by the impugned judgment. The State Government preferred a Special Appeal before the Division Bench, however, the Division Bench dismissed the Special Appeal on the ground of delay. Challenge was made to the order passed by the Division Bench before the Hon'ble Supreme Court and while the delay was condoned by the Apex Court, the SLP was dismissed on merits. The State Government preferred a revision petition but the same was also dismissed by the Apex Court.

8. The Jaipur Development Authority preferred appeal against the order passed by the learned Single Judge and the Division Bench, vide its judgment dated 14.09.2018, dismissed the appeal. The order passed on 14.09.2018 in the present case was



challenged before the Hon'ble Supreme Court in SLP No.6212/2019 and Hon'ble Supreme Court passed the following order:

*"Leave granted.*

*This Court, after hearing the learned counsel for the parties, has passed an order on 14.05.2024:*

*"The dismissal of SLP (C) No.29624/2014 preferred by the State of Rajasthan impugning the order dated 05.02.2014 in intra-court appeal/DBSA (Writ) No.934/2013 passed by the High Court of Rajasthan, in our opinion, will not result in either merger or res-judicata. The Division Bench of the High Court, in the order dated 05.02.2014, had dismissed the intra-court appeal preferred by the State of Rajasthan not on merits, but by refusing to condone the delay of 1443 days. As the intra-court appeal has been dismissed on the ground of limitation, the doctrine of merger does not apply.*

*Recording the aforesaid, we would reject the submission made on behalf of the respondents that dismissal of SLP (C) No.29624/2014 by this Court, should result in dismissal of the present special leave petition preferred by the Jaipur Development Authority.*

*We must note two submissions made by the respondents. The first, relies upon the order dated 11.04.2022 passed in Misc. Application No.600/2022 in Civil Appeal No.1688/2022 titled "Govt. of NCT Delhi Department of Land and Building & Anr. v. Sukhbir Singh & Ors.". The facts of the said case are entirely different, for the Delhi Development Authority had filed a Civil Appeal against the same judgment, which was heard and dismissed on merits. Thus, the doctrine of merger applies. The second submission is that the appeal preferred before this Court on behalf of the State of Rajasthan was supported by an affidavit filed by an officer of the JDA. This, in our opinion, is immaterial and inconsequential.*

*The contention of the respondent that the JDA is not an aggrieved party and, therefore, could not have preferred the intra-court appeal, is left open at this stage."*

*The matter has come up for hearing today. Learned Senior Advocate appearing for the respondents states that he would not oppose a direction being given by this Court to the Division Bench of the High Court to hear the D.B. Special Appeal No.658/2010 on merits.*

*We record that the statement made is just and fair. Accordingly, the impugned judgment dated 14.09.2018 is set aside and the appeal is allowed.*



*We clarify that the order dated 14.05.2024, as quoted above, only decides the issue with regard to the doctrine of merger and res-judicata. All other pleas and contentions of the parties are left open. Pending application(s), if any, shall stand disposed of."*

9. Thus, the case has again come before us for hearing.

10. Learned Senior Counsel for the respondent No.1 submits that there is no occasion for the JDA to be aggrieved of the order passed by the learned Single Judge as the respondent No.1 has nowhere challenged the acquisition proceedings.

11. Learned Senior Counsel further submits that the order passed by the learned Single Judge could have been assailed only by the State Government as the learned Single Judge has only quashed and set aside the order dated 23.06.2009 whereby the State Government's earlier two orders dated 12.05.2003 and 19.05.2003 allotting Plot No.7, Airport Plaza, Jaipur admeasuring 9000 square meters in lieu of granting compensation for the acquisition was kept in abeyance. So far as JDA is concerned, it has received the land in question and has also taken possession of the said land.

12. He has further pointed out that the State Appeal has been dismissed by this Court as well as by the Supreme Court. The observations of the Apex Court were made only with reference to the question of doctrine of merger and *res judicata* while leaving all other pleas open to be examined by this Court. He, therefore, submits that the present special appeal filed by the JDA challenging the merits of the order passed by the learned Single Judge, although may not be hit by the principle of *res judicata* or by the doctrine of merger, independently would not survive as it does not take away any of the rights of JDA nor it affects JDA's



right to possession of the land acquired for it by the State Government.

13. Per contra, learned counsel appearing for the appellant JDA has vehemently argued the case stating that the writ petition filed by the respondent No.1- writ petitioner itself was having no locus, moreso, the earlier petitions filed by other stakeholders had already been dismissed from time to time by this Court, as has been noticed by us supra.

14. Learned counsel submits that there was no occasion for allotting 9000 square meters of land to the writ petitioner by the State Government and the State Government's action was based on fraud and the orders had been passed by facilitating bribe to the then Ministers and others. Therefore, the land is required to be surrendered. He submits that as the land had already been acquired and possession has already been taken over, there was no occasion for the word "surrender" to be used by the learned Single Judge and in lieu of surrender, there was no occasion of any land being allotted to the writ petitioner. A false representation of fact by trickery order sheet cannot create a case in favour of the writ petitioner. He relies on the judgment passed by the learned Single Judge to submit that as the concerned persons had expired, the proceedings were dropped against the concerned Ministers and other Officers of the State. The advantage, therefore, could not be extended to the writ petitioner.

15. While hearing the case after directions of the Supreme Court, we found that on 10.02.2025 the Division Bench has asked the State Government for placing on record the relevant facts, but instead an affidavit was filed by the Deputy Commissioner, Zone-



4, JDA instead of an Officer of the State Government. Hence, the said affidavit was, therefore, rejected. The State Government thereafter, filed an affidavit of the Principal Secretary, Department of UDH, which was completely evasive and did not inform the Court as to what is the present position and we, therefore, directed on 23.01.2026 to the Principal Secretary, Department of UDH to file an affidavit clearly speaking out as to whether the amount of compensation and enhanced compensation both were paid or deposited or not and also give out the amount, date of deposit, etc. Thereafter, affidavit of the Principal Secretary, UDH was filed in compliance of the order dated 10.02.2025, 06.01.2026 and 23.01.2026. It will be apposite to quote the said affidavit, wherein from para No.2 to 4 orders passed by this Court have been quoted and the contents commence from para No.5, which reads as under:

*"5. That in compliance of the aforesaid order, it is submitted that on 9.4.1981 the Land Acquisition Officer passed an award for monetary compensation to be paid to khatedars i.e. Shri Ayodhya Prasad and Shri Daulat Babu to the tune of Rs. 1,38,180/- each. From 15.4.1981 to 27.10.1990 various notices inviting the khatedars to collect the cheques from the office of Land Acquisition Officer were issued. However, no one collected the cheques. On the request of the Land Acquisition Officer, fresh cheques were issued in the name of Civil Judge, Jaipur City Jaipur on 8.1.1997. A copy of the letter dated 8.1.1997 in this regard is filed herewith and marked as **ANNEXURE RA-1**. The Land Acquisition Officer accordingly vide letter dated 8.1.1997 sent cheque No. 169877 of Rs. 1,38,180/- and cheque No.169876 of Rs. 1,38,180/- to the Civil Judge Jaipur City, Jaipur. A copy of the letter dated 8.1.1997 in this regard is filed herewith and marked as **ANNEXURE RA-2**.*

*6. That on query, the learned Senior Civil Judge, Jaipur Metropolitan-1 vide letter dated 30.1.2026 has clarified that entry in relation to deposit of cheque No. 169876 of Rs. 1,38,180/- and cheque No. 169877 of Rs. 1,38,180/- of Khatedar Ayodhya Prasad Tiwari and Daulat Babu S/o Kashi Prasad exist in the cheque register of the court, but there is no entry/mention of receipt of payment of the amount of aforesaid cheques in the register. A copy of the letter dated*



30.1.2026 is submitted herewith and marked as **ANNEXURE RA-3**.

7. That on a reference being made by the khatedars, the Reference Court on 24.3.1990 enhanced the cash compensation. A copy of the judgment dated 24.3.1990 is filed herewith and marked as **ANNEXURE RA-4**.

8. That on verification of the official record, nothing has been found with regard to payment of the enhanced compensation as per judgment dated 24.3.1990 to the concerned khatedars or deposit thereof with the civil court. Hence, it can be said that the enhanced compensation was neither paid to the khatedars, nor deposited with the court.

9. That this affidavit is being filed in compliance of the orders dated 10.2.2015, 6.1.2026 and 23.1.2026 passed by the Hon'ble Court and the same may kindly be taken on record."

16. We are, thus, satisfied that neither the original khatedars, nor their assignees including last assignee, the respondent No.1, have received any monetary compensation. The original amount, as assessed by way of compensation, was also deposited, but has not been paid.

17. The word "paid" has been explained in **Indore Development Authority vs Manoharlal And Ors.: (2020) 8 SCC 129**, the Apex Court held as under:

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

18. Thus, we are satisfied that although the State Government has taken over possession of property in question and the respondent is not challenging the acquisition, their right to receive compensation in lieu of acquisition still survives as they have



obtained the rights and interests of the earlier stakeholders from whom the land was acquired and possessed by the State Government. It is, therefore, the State Government and its policy which would apply with regard to compensation. The policy was issued initially by the State Government, known as Regularization Policy in the year 1994 which was later amended from time to time in 1996 and on 10.07.1999, 26.05.2000 and subsequently on 13.12.2001 and 26.07.2002. As per the Policy of the State Government, if the interested persons whose land has been acquired, surrender all their rights, they would get 15% developed land in lieu of monetary compensation subject to withdrawal of pending litigation. It has come on record that the respondent No.1 had moved applications on 19.03.2003 and 01.05.2003 applying to the State Government for grant of 15% developed land in lieu of monetary compensation and had promised to withdraw all its pending litigation. An order was passed on 12.05.2003 by the State Government directing the JDA to allot plot No.7 admeasuring 9000 square meter and another order was passed on 12.05.2003 itself directing the respondent No.1 to withdraw all the pending litigation. On 19.05.2003 again, the State Government directed JDA to obtain an affidavit from the respondent No.1 in regard to withdrawal of pending litigation and the respondent No.1 withdrew the SLP pending before the Supreme Court with regard to said acquisition and claim of compensation. All other pending cases were also withdrawn without seeking any regularization of part of acquired land and only claimed 15% developed land in terms of the policy dated 13.12.2001, as amended on 26.07.2002.



19. We notice that the learned Single Judge in his judgment dated 06.08.2009 while upholding the right of respondent No.1-writ petitioner to get 15% developed land, found that the order of allotting plot No.7, admeasuring 9000 square meter at Airport Plaza, Jaipur had not been withdrawn by the State Government and vide impugned order dated 23.06.2003, the order had already been kept in abeyance. The learned Single Judge found that orders passed earlier on 12.05.2003 and 19.05.2003 could not be objected to and the State Government was bound by the principle of promissory estoppel as the other party, namely respondent No.1, had performed its obligation in terms of the orders dated 12.05.2003 and 19.05.2003 and withdrawn the cases pending before the Supreme Court and at other places. A "U" turn made by the State Government at the behest of JDA was, therefore, held to be unjustified and illegal and violative of doctrine of legitimate expectation.

20. The argument being advanced by the JDA before us opposing allotment of 9000 square meters of land to the writ petitioner appears to be solely on the basis that the said 9000 square meters of land has become a prime property and the State Government's action of allotting such a land may cause loss to the JDA.

21. It also appears that the JDA also opposes the action on the ground that the concerned Minister has supposedly taken a bribe for issuing the orders. We, therefore, need to examine the aspect regarding payment of compensation and whether the respondent No.1 had a right to receive 15% developed land in lieu of compensation. For the said purpose, it would be apposite to quote



the policy decision of the State Government dated 13.12.2001, as amended on 26.07.2002 as under:

"jktLFkku ljdkj ds ifji= la[;k ,Q- 6¼9½ ufov@89 fnukad 21-9-1999 ds }kjk futh [kkrsnkjksa ls le>kSrs ls Hkwfe izklr djus gsrq Hkwfe vokflr ds izdj.kksa esa [kkrsnkjksa@Hkw&Lokfe;ksa dks mudh voklrk/khu Hkwfe dh ,ot esa 15 izfr'kr fodflr Hkw&[k.M fn;s tkus dk izko/kku fd;k x;k Fkka mDr ifji= esa ,sls izdj.k ftuesa vokMZ ?kksf"kr gks pqdk gS rFkk eqvkots dh jkf'k dk Hkqxrku fd;k tk pqdk gS esa 15 izfr'kr Hkw[k.M ugha fn;s tkus ds funsZ'k fn;s x;s gSaA

bl IEcU/k esa jkT; ljdkj ds /;ku esa vk;k gS fd Hkwfe vokflr ds ,sals vusd izdj.k vHkh Hkh yafcr gSa ftuesa vokMZ tkjh gks pqdk gS] ysfdu dkLrdkjksa dks vHkh rd eqvkots dh jkf'k dk Hkqxrku ugha fd;k tk ldk gS vFkkZr~ [kkrsnkjksa dks jkf'k dh izflr fdlh Hkh dkj.ko'k ugha gks ik;h gSA bu dkLrdkjksa }kjk iwoZ esa udn eqvkots ds LFkku ij fodflr Hkwfe fn;s tkus ds izko/kku dh tkudkjh ugha gksus ds dkj.k ifji= esa of.kZr dkykof/k esa fodYi izLrqr ugha fd;s tk lds gSaA vr% jkT; ljdkj }kjk bl laca/k esa lezrk ls fopkj dj ;g fu.kZ; fy;k x;k gS fd ,sls iqjkus izdj.k ftuesa vokMZ tkjh gks pqdk gS] yssdu [kkrsnkj@Hkw&Lokeh dks vHkh rd udn eqvkots dk Hkqxrku fdlh Hkh dkj.k ls ugha gks ldk gS] dks ,d volj vkSj iznku fd;k tkosa vr% vc ;g izko/kku fd;k tkrk gS fd ,sls [kkrsnkjksa@Hkw&Lokfe;ksa }kjk viuk fodYi fnukad 28-2-2002 rd izLrqr fd;s tk ldsaxs rFkk mUgSa 15 izfr'kr fodflr Hkw&[k.M IEcfU/kr laLFkku dh vkoaVu lfefr }kjk jkT; ljdkj dh iwoZ vuqefr ds i'pkr~ fd;k tk ldsxka ;fn fdlh laLFkku esa igys ls vkoaVu lfefr dk xBu ughas fd;k x;k gS rks t;iqj fodkl izkf/kdj.k o jktLFkku vkoklu e.My ds vfrfjDr IHkh uxj fodkl U;klsaa ,oe~ uxjikfydk@ifj"knksa o fuxe }kjk de ls de rhu vf/kdkfj;ksa ,oa tuizfrfuf/k;ksa dh bl iz;kstukFkZ lfefr xBr dh tkosxh tks viuh flQkfj'k laLFkk dks



nsxhA bldk jkT; ljdkj dh iwoZ vuqefr ls gh vkoaVu fd;k tk ldsxkA

Hkfo"; esa Hkwfe vokflr ds izdj.kksa esa Hkwfe vokflr vf/kdkjh }kjk /kkjk 9 ds uksfVI ds vUrxZr [kkrsnkj dks lwfpr fd;k tkosxk fd og udn eqvkots ds lFkku ij 15 izfr'kr fodflr vkoklh; Hkw[k.M Hkh ys ldrs gSaA bl laca/k esa [kkrsnkj@Hkw&Lokeh }kjk viuk fodYi tokc@Dyse is'k djuk gksxkA Hkwfe vokflr vf/kdkjh /kkjk 12¼42½ Hkwfe vokflr vf/kfu;e] 1984 ds uksfVI esa iqu% ;g vafdr djsxk fd [kkrsnkj@Hkw&Lokeh mDr uksfVI ds ,d ekg ds vUnj 15 izfr'kr Hkw&[k.M ds fy;s vkosnu djsxkA rRi'pkr~ lEcU/kr laLFkk mls 5 ekg esa vfuok;Z :i ls 15 izfr'kr fodflr vkoklh; Hkw&[k.M vkoaVu dj dCtk laHkyk nsxhA

iqjkus ,sls izdj.kksa ftuesa vHkh rd vokMZ ? kksf"kr ugha gqv kS rFkk Hkfo"; esa vokflr ds izdj.kksa esa 15 izfr'kr fodflr Hkw&[k.M fn;s tkus ds lEcU/k esa] nksuksa gh ekeyksa esa fuEufyf[kr 'krsZa Hkh ykxw gksxh%&

1- voklr'kqnk Hkwfe ds cnys esa nh tkus okyh Hkwfe fodflr vkoklh; Hkwfe gh gksxh] okf.kfT;d ughaA

2- voklr'kqnk Hkwfe ds cnys esa fodflr Hkwfe lkekU;r;k mlh ;kstuk {ks= esa ,oa mlh lFkku ij nh tk,xh tgka Hkwfe voklr dh xbZ gSA lacaf/kr laLFkk }kjk de ls de rhu vf/kdkfj;ksa ,oe~ tuizfrfuf/k;ksa dh ,d vkoaVu lfefr xBr dh tkosxh tks ,sls izdj.kksa esa vkoafVr dh tkus okyh Hkwfe ckcr viuk fu.kZ; ys ldsaxhA

<sup>1</sup>[3. voklr'kqnk Hkwfe ds cnys fodflr Hkwfe izklr djus dk fodYi nsus ij voklr'kqnk Hkwfe esa fufeZr Hkou gksus dh fLFkfr esa [kkrsnkj dks ;Fkk laHko 15 izfr'kr Hkwfe mlh lFkku ij vkoafVr dh tk;s] tgka ij mldk fufeZr Hkou fLFkr gksA ,slh fLFkfr esa [kkrsnkj dks fufeZr Hkou dk i`Fkd ls dksbZ eqvkotk ns; ugha gksxkA ysfdu ;fn fdlh dkj.k o'k [kkrsnkj dks ml lFkku ij 15 izfr'kr Hkw[k.M vkoafVr fd;k tkuk laHko ugha gks] tgak ij mldk fufeZr Hkou fLFkr gS] rks fufeZr Hkou dk udn eqvkotk i`Fkd ls ns; gksxk]

<sup>2</sup>[4. 15 izfr'kr fodflr Hkw&[k.M [kkrsnkj@Hkw&Lokeh vFkok mlds }kjk jftLVMZ eq[rkjkesa esa vf/kd`r eq[rkjvke vFkok [kkl



dks vkoafVr fd;k tk ldsxkA bls vfrfjDr [kkrsnkj@Hkw&Lokeh vFkok ml ds eq[arkj dh vksj ls ukfer O;fDr;ksa dks Hkh fodflr Hkw&[k.M vkoafVr fd;k tk ldsxk] ysfdu ,sls O;fDr;ksa }kjk mUgsa vkoafVr Hkw&[k.M ij ml {ks= dh Hkwfe vkoklh; vkjf{kr nj ds vk/kkj ij LVkEi M~;wVh ns; gksxhA]

- 1- ifji= Øekad i- 6¼19½ ufofo@89 fnukad 17-1-2002 }kjk izfrLFkkfir fd;k x;kA  
 2- ifji= Øekad ,Q- 7¼470½ ufofo@3@2002 fnukad 26-7-2002 }kjk izfrLFkkfir fd;k x;kA"

22. It may be pertinent to mention that the circular dated 13.12.2001 was further clarified on 19.03.2002 that the State Government would be free to allot 15% developed land to concerned khatedar, which may be of any nature, whether commercial or residential. The circular dated 19.03.2002 reads as under:

"bl foHkkx ds ifji= la[;k ,Q-6¼19½ ufofo@89 fnukad 13-12-2001 ds }kjk voklr 'kqnk Hkwfe ds cnys 15 izfr'kr fodflr Hkwfe vkoafVr djus ds laca/k esa funsZ'k tkjh fd;s x;s Fks ftlesa ,d 'krZ ;g Hkh yxk;h x;h Fkh fd voklr 'kqnk Hkwfe ds cnys esa nh tkus okyh Hkwfe fodflr vkoklh; Hkwfe gh gksxh] okf.kfT;d ughaA jkT; ljdkj }kjk mDr 'krZ ij iqufoZpkj djds ;g fu.kZ; fy;k x;k gS fd voklr 'kqnk Hkwfe pks okf.kfT;d@laLFkkfud ;k vkS|ksfxd iz;kstukFkZ ;k vU; iz;kstukFkZ voklr dh xbZ gks rFkk ekLVj lyku esa mDr {ks= dk dksbZ Hkh Hkw&mi;ksx gks] lacaf/kr [kkrsnkj dks ;FkklaHko mlh Hkwfe Hkwfe esa ls 15 izfr'kr fodflr Hkwfe voklh; mi;ksx gsrq vkoafVr dh tk ldrh gSA vkoklh; Hkwfe ds vkoaVu ds i'pkr vkoaVh okf.kfT;d ;k vU; iz;kstukFkZ Hkw&mi;ksx ifjorZu@:ikUrj.k izpfyr fu;eksa ds izko/kkuksa ds varxZr Hkw&mi;ksx ifjorZu djkus dks Lora= gksxkA"

23. It is, thus, apparent that while partial possession of the land admeasuring 49 bigha and 10 biswas was taken over on 22.10.1983 leaving 9 Kothadi and 1 Chabutra, and possession was



handed over to the JDA, the possession of said 9 Kothadi and 1 Chabutra was taken over on 27.12.2002 when all pending litigations had been withdrawn by the respondent No.1.

24. We also notice that value of the land admeasuring 19 bigha and 10 biswas, as acquired, has grown by leaps and bounds and is being utilized by the JDA itself. In lieu thereto, the concerned land owners who may be the original khatedars or subsequent assignees would be entitled to 15% developed land and cannot be landless and even compensation ought to be paid.

25. As noticed in Indore Development (Supra), the payment of compensation has to be calculated as per the present rates.

26. We have also noticed the provisions of Sections 54 and 90 of the Act which reflect that the orders dated 12.05.2003 and 19.05.2003 are the orders passed under Section 19(3) of the JDA Act and no reference has been made by the JDA to the said orders till date and the same have attained finality. Keeping them in abeyance does not cancel the said orders. The action of passing orders and then keeping them in abeyance is virtually giving something by one hand and withdrawing it by another. Such approach is not acceptable in Court of law.

27. With regard to policy dated 13.12.2001 regarding validity of allotment of 15% developed land is no more *res integra*, the Apex Court in **Lalaram Vs. Jaipur Development Authority and Anr. (2016) 11 SCC 31** has upheld the said decision of the State. The JDA is bound by the orders passed by the State Government. The orders have attained finality by dismissal of the appeal as well as SLP.



28. Independently, we have examined the case of the JDA and find no force in its submissions. The orders passed by the State Government cannot be said to be illegal and unjustified and are strictly in accordance with the policy of the State Government, *moreso*, as the enhanced compensation which was awarded in reference, increasing price of land from Rs.6000/- to Rs.24000/- per bigha vide order dated 24.03.1990 and not been paid, as is apparent from the affidavit filed by the Principal Secretary, Department of UDH (*supra*).

29. Having examined all the aspects, we are satisfied that no interference is warranted in the present Special Appeal. We uphold the order dated 06.08.2009 passed by the learned Single Judge quashing the order dated 23.06.2009 and further direct the JDA to immediately take steps for implementing the orders passed by the State Government dated 12.05.2003 and 19.05.2003 and issue order of allotment of plot No.7, Airport Plaza, Jaipur admeasuring 9000 square meters to the respondent No.1-writ petitioner.

30. Accordingly, the Special Appeal (Writ) is dismissed in view of above.

31. All pending applications also stand disposed of.

(SANGEETA SHARMA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

Govind/J Soni/