NEUTRAL CITATION NO. 2026:MPHC-GWL:12596

IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

WRIT PETITION No. 740 of 2013

RAMAUATAR SINGH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND ANOTHER

Appearance:

Shri Prashant Sharma- Advocate for the petitioners.

Shri Shiraz Quraishi- Govt. Advocate for respondents Nos. 1 and 2/State.

Shri S.P.Jain-Advocate for respondent No.3.

WITH

WRIT PETITION No. 189 of 2014

RAJ KUMAR SINGH (SINCE DECEASED) THROUGH LRS SMT SHEELA DEVI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND ANOTHER

Appearance:

Shri Somyadeep Dwividi-Advocate for the petitioners.

Shri Shiraz Qureshi-Govt. Advocate for respondents Nos. 1 and 2/State.

Shri S.P. Jain-Advocate for respondent No.3.

NEUTRAL CITATION NO. 2026:MPHC-GWL:12596

Reserved on 09.02.2026

Passed on 18.04.2026

ORDER

1. The instant writ petitions (W.P. No.189/2014 and W.P. No.740/2013) filed under Article 226/227 of the Constitution of India seeks following reliefs:-

> *"(i) A direction may kindly be issued for quashing the notification issued under Sections 4 and 6 of the Act (Annexures P-1 and P-2),*
>
> *(ii) That, possession of the land which was taken from the petitioners may be directed to be returned back as the land is lying vacant and till date, no construction has been taken place for establishment of Mandi.*
>
> *(iii) That, looking to the law laid-down Hon'ble by Apex Court reported in AIR 2012 SC 468, the possession of the land of the petitioners may be taken back*
>
> *(iv) Cost of the petition may be awarded."*

2. As the issues involved in both writ petitions are identical, and the reliefs sought are likewise identical, both petitions are disposed of by this common order.

3. For the sake of convenience, facts from W.P. No. 189/2014 are taken into consideration which are as under:

4. The petitioners in WP No.189/2014 were owners of lands bearing Khasra Nos. 527/1 measuring 2 bigha 2 biswa, 531 admeasuring 4 bigha 3 biswa situated at Village Kiratpura, District Bhind, whereas the petitioners in WP

No.740/2013 were the owners of the lands in the same village as detailed in para 5.1 of the said petition.

5. A resolution dated 07-6-1985 came to be passed by the respondent No. 3 in the year 1985 whereby, total land measuring 27.59 hectares of land was proposed to be acquired for establishment of Mandi Yard and for the said purposes, a notification dated 09.05.1985 under Section 17(1) of the Land Acquisition Act, 1894 [hereinafter referred to as "Act of 1894"] (Annexure P-7) was previously issued. Since no further proceedings pursuant to the notification dated 7-6-1985 could be taken forward, therefore, on 29-4-1988 the proceedings initiated *vide* notification dated 7-6-1985 were dropped by the Collector. Another resolution dated 27-10-1988 was passed by the respondent No. 3 for acquisition of lands in village Kiratpura, Bhind and Mangatpura for establishment of Krishi Upaj Mandi at Bhind. Thereafter, on 17-2-1989, a notification under Section 4 of the Act of 1894 was issued for acquisition of land in Bhind town and village Kiratpura and Mangatpura in district Bhind and urgency clause under Section 17 of the Act of 1894 was also invoked. Another notification dated 4-8-1989 under Section 6 of the Act of 1894 was issued in furtherance of the earlier notification issued under Section 4 of the Act of 1894 as issued on 17-2-1989.

6. Some of the villagers of village Kiratpura, whose lands were sought to be affected by the above notifications, approached this court by way of Miscellaneous Petition bearing M.P.No.1198 of 1989 seeking quashment of the notification issued under Section 4 r/w Section 17(1) of the Act of 1894, so also the notification under Section 6 of the Act of 1894.

7. During the pendency of the said MP, the land acquisition award dated 14.02.1991 was passed by the Land Acquisition Officer, determining the amount of compensation payable to the landowners whose lands were sought to be acquired.

8. On 31.03.1995, M.P.No.1198 of 1989 came to be allowed by this Court, whereby the notification under Section 4 of the Act of 1894 was quashed (Annexure P-3).

9. On 29.06.2003, (Annexure R-2), a Panchnama indicating the taking over of possession of the lands from the landowners in village Kiratpura and Mangatpura by the respondents was drawn.

10. On 16.11.2006, a notification under Section 5 of the Krishi Upaj Mandi Adhiniyam, 1972 (Annexure R-6) was issued by the State Government, declaring the acquired land of the above villages as a “Market Yard”.

11. In the meantime, WA No.198/2007, filed by respondent No. 3 challenging the order dated 31.03.1995 passed by the Single Bench of this Court in MP No.

1198 of 1989, was dismissed. A review petition, bearing RP. No. 443 of 2012, was preferred by respondent No. 3 against the order dated 13.03.2007 passed by the Division Bench of this Court in WA No. 198 of 2007, which came to be disposed of *vide* order dated 04.01.2013 with certain observations.

12. In the interregnum, it appears that the petitioners in W.P. 189/2014 herein also filed a civil suit, bearing RCS No. 35A/2009, on 16.06.2009, which came to be withdrawn on 26.08.2013 on the ground of non-maintainability. The learned trial court granted liberty to the petitioners in WP No. 189/2014 to pursue appropriate remedies. On 07.01.2014, the present WP No. 189/2014 was filed before this Court seeking the reliefs as stated above, whereas the connected WP No. 740/2013 was filed on 21.01.2013 seeking the reliefs as stated above however, it is noteworthy that the petitioners in WP No.740/2013, never assailed the acquisition proceedings before any other forum prior to filing the present wit petition.

13. The learned counsels appearing for the petitioners submits that since the very same notification issued under Section 4 of the Act of 1894 already stands quashed by this Court *vide* order dated 31.03.1995 passed in MP No. 1198 of 1989, as affirmed *vide* order dated 13.03.2007 passed by the Division Bench of this Court in WA No. 198/2007, the petitioners are entitled for same relief as has been granted by this Court in MP No. 1198/1989 and therefore, the acquired

lands of the petitioners are liable to be returned. It is further submitted by the learned counsels appearing for the petitioners that there is no delay and laches on their part in invoking the writ jurisdiction of this Court for the reliefs as stated hereinabove as under the wrong legal advice, the petitioners in WP No. 189 of 2014 earlier instituted a civil suit challenging the acquisition proceedings in question on 16.06.2009, which was permitted to be withdrawn with liberty to seek appropriate remedy *vide* order dated 26.08.2013. Immediately thereafter, the present writ petition has been filed. Thus, it cannot be said that the applicants were negligent in pursuing their remedies and there is no deliberate delay and latches on their part in approaching this Court for the reliefs as claimed.

14. It is also submitted by referring to the documents filed along with IA No. 10815 of 2025 (an application for bringing facts and supporting documents on record), that the writ petitioners in MP No. 1198 of 1989, since they were not returned their lands nor any proceedings for acquisition of their lands afresh were initiated by the respondent No.3, they approached this Court in WP No. 1393 of 2017 and WP. No. 23970 of 2019. These were allowed *vide* order dated 14.10.2024 (Annexure P-9) and 10.12.2024 (Annexure P-10) whereby, the writ petitioners therein have been directed to submit fresh demand drafts along with interest at the rate of 12% per annum to the respondent No. 3 towards refund of

the compensation received by them, and thereafter, the restoration of possession of their lands has been directed. Although liberty is reserved in favour of respondent No. 3 to initiate acquisition proceedings afresh, but till date, no such exercise has been done by the respondent No.3. Further, they submit that though the aforesaid orders passed by the coordinate bench of this court have been challenged by the respondent No. 3 in writ appeals wherein interim protection has been granted, therefore, it can be safely said that the litigation emanating from the notification dated 17.02.1989 is still pending consideration before this court. Therefore, the petitioners in the present petitions cannot be deprived of their rights on technical ground of limitation.

15. It is also submitted that the exercise of invoking Section 17(1) of the Act of 1894 by the Collector in issuing the impugned notification under Section 4 of the Act of 1894 since is without jurisdiction, the efflux of time would not render the said notification good in law. As the illegality sought to be highlighted by the petitioners strikes at the root of the order, and in support thereof, reliance has been placed on the judgment by the Apex Court in the case of ***Ritesh Tewari and Another vs. State of UP and Others, (2010) 10 SCC 677.***

16. The learned counsels appearing for the petitioners also submit that the order dated 31.03.1995 passed by this Court in MP No. 1198 of 1989 is an "*order in rem.*" As the entire notification impugned in the petition was quashed

by this Court without making any distinction as regards the persons who had approached this Court in MP No. 1198 of 1989, it is argued by the learned counsels for the petitioners that though the liberty was there in favour of respondent No. 3 to rectify their mistake and issue fresh notifications for the acquisition of the lands in question, yet, in so far as the landowners in MP No.1198 of 1989 are concerned, no exercise for issuance of fresh notification was undertaken and there cannot be segregation of the validity of the notification impugned in the present petition as regards the persons who had approached this Court in time qua the petitioners herein. It is submitted that once the notification stands quashed, it is quashed for all purposes.

17. By referring to the documents filed along with IA No. 10815 of 2025, it is also argued that the Google image of the lands so acquired by the respondents belonging to the petitioners indicate that the same is lying vacant till date, and no development activity thereon has been undertaken till date. Therefore, it has to be construed that from the very beginning, no urgency in the matter of acquisition of the lands from the petitioners was involved. Since the land is not put to use even after an efflux of 35 - 36 years from the date of issuance of notification, the lands are liable to be restored to the petitioners. In support of their contentions, the counsel appearing for the petitioners have placed reliance on the judgment by the Apex Court in the case of ***Shri Radhey Shyam (Dead)***

through LRs and Others vs. State of UP and Others, 2011 5 SCC 553 (by reference to Para 61) and the judgment by the Apex Court in the case of ***Harbinder Singh Sekhon and Others vs. State of Punjab, SLP Civil No. 8316 of 2024*** (with reference to Para 22 and 23). It is also argued by the learned counsels for the petitioners that the petitioners, can neither be ranked as "fence sitters" in the matter of challenge to the proceedings in question nor they can be denied relief on the grounds of *estoppel* just because the petitioners have accepted the compensation in respect to the land acquisition award passed in the year 1991. This is because, it is only recently in the year 2024 that the applications have been moved by respondent No. 3 to get the revenue records corrected in respect of the lands in question, and for all purposes, the lands are stated to be still in the possession of the petitioners. Accordingly prayer for allowing the petitions with reliefs claimed therein has been made.

18. *Per contra*, the learned counsel appearing for respondent No. 3 opposes the writ petitions not only on the grounds of delay and laches and *estoppel* on the part of the petitioners, but also on the ground that the petitioners are not entitled to claim any benefit out of the order dated 31.03.1995 passed in M.P. No. 1198 of 1989 in view of the clarification issued by the Division Bench of this Court *vide* order dated 04.01.2013 passed in R.P. No. 443 of 2012 (Annexure R-8). It is argued by the learned counsel appearing for the

respondent No. 3 that the petitioners herein never objected to the acquisition proceedings of their land; in fact, pursuant to passing of the award dated 14.02.1991 (Annexure R-3), the petitioners, have happily accepted the payment of compensation in terms of the award dated 14.02.1991 and the information thereof was also communicated to the State Government at the relevant time.

19. Learned counsel for respondent No. 3 by referring to the pleadings made in the return submits that initially, 21.954 hectares of lands comprising of various survey numbers in three villages of District Bhind, namely, Kiratpura, Bhind and Mangatpura were sought to be acquired. However, at the relevant time, in all, seven Miscellaneous/Writ petitions came to be filed before this court challenging the said proceedings forming 7.694 hectares of land as subject matter, as stated in para-4 of his reply. Since, the litigation was instituted only in respect of 7.694 hectares of land before this court at the relevant time, the proceedings for remaining 14.260 hectares of land was finally concluded and as per the possession memo dated 29.06.2000 filed with the return, the possession of the lands including the lands of the petitioners were taken way back in the year 2000 itself. The notification under section 5(2) of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 in respect of the said 14.260 hectares of land came to be issued by the State Government on 16.11.2006 declaring the lands in question as "Market Yard" and thereafter, the Mandi had spent nearly

about a sum of Rs. 2 crores for development of the market yard/Krishi Upaj Mandi wherein the Mandi is functional and in support of the said contention various documents have been filed along with the return.

20. Learned counsel appearing for respondent No. 3 by referring to the reply to I.A. No. 10815 of 2025 filed as document No. 10240 of 2025 submits that the lands in question stand recorded in the name of the respondent No. 3 wherein, various permanent structures as mentioned in Annexure R-9 including office building, bank and post office, canteen, farmers' rest house, public toilet and other structures total 21 in number have been developed and constructed. In view whereof, it is submitted that the petition filed by the petitioners does not call for interference on merits and deserves dismissal on the grounds of delay and laches in the light of the judgment by this court in the case of ***Bhairo Singh Vs State of MP and others; 2016 (4) MPLJ 622,*** and ***Lieutenant Governor of HP Vs. Avinash Sharma; (1970) 2 SCC 149***.

21. In rejoinder arguments, the learned counsels appearing for petitioners by referring to their rejoinder filed, submits that the possession of the lands in question for practical purposes still lies with the petitioners though they may have accepted the compensation amount as awarded.

22. No other grounds have been pressed by the learned counsels for the parties.

23. Heard the learned counsels for the parties and perused the record and also considered the written submissions submitted by the petitioners as well as the respondent No. 3.

24. In view of the contentions advanced by the rival parties, the following issues arise for consideration:

(i) Whether the benefit of the order passed by this court on 31.03.1995 in M.P. No. 1198/1989 is to be extended to the present petitioners also or whether, these petitions have to be dismissed on the ground of delay and laches?

(ii) Whether these petitions are hit by principles of estoppel and acquiescence?

25. It is an undisputed fact that notification under Section 4 r/w Section 17(1) of the Act of 1894, challenged in the present petitions, was issued on 17.02.1989 whereas, the notification under Section 6 of the Act of 1894 was issued on 27.07.1989. It is also not in dispute that the land acquisition award was passed on 14.02.1991 and the petitioners herein, after accepting the payment of the land acquisition award, have approached this court in the year 2013 and 2014 for the first time. Though the petitioners in W.P. No. 189 of 2014 are stated to have filed a civil suit on 16.06.2009, which is stated to be withdrawn on 26.08.2013. Thus, these petitions have been filed nearly after 22

years from the date of passing of the land acquisition award and approximately after 25 years from the date of issuance of the notifications impugned. The petitioners in M.P. No. 1198 of 1989 and other connected petitions approached this court at the very relevant time challenging the notifications, even without waiting for passing of the final award, and this court has granted relief to the petitioners therein at the relevant time, whereby, the notification under Section 4 of the Act of 1894 was quashed *vide* order dated 31.03.1995.

26. Whether the order dated 31.03.1995 passed in M.P. No. 1198 of 1989 was an order '*in rem*' or '*in personam*' has been clarified by the Division Bench of this court itself *vide* order dated 04.01.2013 passed in R.P. No. 443 of 2012 filed by the respondent No. 3., the operative portion whereof reads as under: -

> "…***The first point raised by learned counsel for the petitioner is that total area of the land, ad-measuring 21.954 hectare was acquired for the purpose of construction of Krishi Upaj Mandi Samiti and only land acquisition proceedings of the area ad-measuring 7.694 hectare was involved in litigation, because the writ petitioners, who are the owners of the land, filed the writ petitions challenging the notification of acquisition of area ad-measuring 7.694 hectare. Those writ petitions have been allowed and this Court also dismissed the writ appeals****. Hence, the whole land which was acquired for the purpose of establishment of Krishi Upaj Mandi Samiti, could not be affected because the construction has already been made over the remaining area of the land.*
>
> ***The contention of the petitioner is irrelevant because the writ Court has quashed the acquisition and it is in regard to the land of, the writ petitioners only, who filed the writ petitions before the writ Court****…."

[Emphasis Supplied]

27. The highlighted and underlined portion of the clarification issued by the Division Bench of this court *vide* order dated 04.01.2013 passed in R.P. No. 443 of 2012 makes it abundantly clear that the order dated 13-03-1995 passed in M.P. No. 1198 of 1989 and other connected cases decided together was restricted to the writ petitioners who had approached this court at the relevant time and therefore, it can safely be said that the relief granted by this court in MP No. 1198 of 1989 and other connected cases decided together was restricted to the writ petitioners therein and was therefore, an order '*in personam*'.

28. A somewhat similar situation came up for consideration before the Apex Court in the case of ***Abheyram (dead) by LRs and others vs. Union of India and others (1997) 5 SCC 421***, and in para 10 and 11, the Supreme Court has held as under:-

> *"**10**. **The question then arises is whether the quashing of the declaration by the Division Bench in respect of the other matters would enure the benefit to the appellants also. Though, prima facie, the argument of the learned counsel is attractive, on deeper consideration, it is difficult to give acceptance to the contention of Mr Sachar.** When the Division Bench expressly limited the controversy to the quashing of the declaration qua the writ petitioners before the Bench, necessary consequences would be that the declaration published under Section 6 should stand upheld.*
>
> ***11**. It is seen that before the Division Bench judgment was rendered, the petition of the appellants stood dismissed and the appellants had filed the special leave petition in this Court. If it were a case entirely relating to Section 6 declaration as has*

> *been quashed by the High Court, necessarily that would enure the benefit to others also, though they did not file any petition, except to those whose lands were taken possession of and were vested in the State under Sections 16 and 17(2) of the Act free from all encumbrances.* ***But it is seen that the Division Bench confined the controversy to the quashing of the declaration under Section 6 in respect of the persons qua the writ petitioners before the Division Bench. Therefore, the benefit of the quashing of the declaration under Section 6 by the Division Bench does not enure to the appellants****."*
>
> [Emphasis Supplied]

29. In the instant case, the clarification issued by the Division Bench of this court *vide* order dated 04.01.2013 passed in R.P. No. 443 of 2012 appears to be in line with the law propounded by the Apex Court in the case of ***Abheyram (supra)*** restricting the benefit to the petitioners who have challenged the notifications immediately at the relevant time.

30. The issue of belated challenge to the land acquisition proceedings came up for consideration before the Apex Court in the case of ***Municipal Corporation of Greater Bombay vs. Industrial Development Investment Co. Pvt. Ltd and others, (1996) 11 SCC 501*** wherein it has been held as under:-

> ***"22****. It is thus well-settled legal position that the land acquired for a public purpose may be used for another public purpose on account of change or surplus thereof. The acquisition validly made does not become invalid by change of the user or change of the user in the Scheme as per the approved plan. It is seen that the land in Block 'H' which was intended to be acquired for original public purpose, namely, the construction of Sewage Purification Plant, though was shifted to Block 'A', the land was earmarked for residential, commercial-cum-residential purposes or partly for residential purpose etc. It is the case of*

the appellant that the Corporation intends to use the land acquired for construction of the staff quarters for its employees. It is true that there was no specific plan as such placed on the record, but so long as the land is used by the Corporation for any designated public purpose, namely, residential-cum-commercial purpose for its employees, the later public purpose remains to be valid public purpose in the light of the change of the user of the land as per the revised approved plan. It is true that in the original scheme the residential quarters for the staff working in Sewage Purification Plant were intended to be constructed and the same purpose is sought to be served by the acquisition of the land by using the land in Block A'. ***Nonetheless the acquired land could be used by the Corporation for residential-cum-commercial purpose for its employees other than those working in the Sewage Purification Plant. It would not, therefore, be necessary that the original public purpose should continue to exist till the award was made and possession taken. Nor is it the duty of the Land Acquisition Officer to see whether the public purpose continues to subsist. The award and possession taken do not become invalid or ultra vires the power of the Land Acquisition Officer****. On taking possession, it became vested in BMC free from all encumbrances including tenancy rights alleged to be held by the respondents. Possession and title validly vesting in the State, becomes absolute under Section 10 of the Act and thereafter the proceedings under the Act do not become illegal and the land cannot be revested in the owner. Only before taking possession, the Government can withdraw from inquiry under Section 45(1) of the Act or the High Court under Article 226 of the Constitution may quash it on legal and valid grounds. If the award under Section 11-A was not made within two years from the date of the publication of the declaration under Section 6, as enjoined under Section 11-A of the Land Acquisition Act, whether the notification under Section 4(1) would lapse. This Court in Satendra Prasad Jain v. State of U.P. had held that after the land stood vested in the State, even if the authorities failed to comply with the statutory requirements, it does not have the effect on the vesting of land in the State. Thereby the notification under Section 4(1) and the declaration under Section 6 do not stand lapsed. The same view*

was reiterated by another Bench in Awadh Bihari Yadav v. State of Bihar". The High Court, therefore, was not right in exercise of power under Article 226 of the Constitution in granting declarations as mentioned in the beginning or in making order of injunction against the appellants pending writ petitions. It is an equally settled law that a tenant cannot challenge the notification under Section 4 and declaration under Section 6 of the Act when the landlord himself had accepted the award and received compensation.

23. The next question is whether the High Court was right in issuing the writ after a long lapse of time? The respondents, admittedly, approached the High Court after a delay of 4 years; that too after award was made and possession was taken from the owner. It is seen that the declaration was published as long back as on 3-5-1979. Earlier to that after the draft plan was published, notice was given to all the parties. The respondents, who claim to be the tenants, had not raised the little finger in making any objection to the proposed scheme or the revised plan. The award was made on 24-2-1983; possession was taken on 4-3-1983, and on the same day it stood transferred to the BMC. The writ petition came to be filed thereafter on 4-7-1983. The learned Single Judge dismissed the writ petition on the ground of laches.

24. In State of T.N. v. L. Krishnan, a Bench of three Judges of this Court had held that:-

"the delay in challenging notification was fatal and the writ petitions were liable to be dismissed on the ground of laches".

Exercise of power under Article 226 of the Constitution, after award was made, was held to have been wrongly made. Delay to make award was not a ground to quash the acquisition proceedings.

25. In State of Orissa v. Dhobei Sethi, it was held that on account of laches on the part of the petitioners, the writ petition was liable to be dismissed. It was also held therein that the subsequent purchaser cannot raise any objection for the validity of the acquisition. The High Court was, therefore, held unjustified in

issuing the writ and quashing the notification and declaration under Sections 4(1) and 6 respectively.

26. In State of Maharashtra v. Digambar, another Bench of three Judges directed dismissal of the writ petition on the ground of laches and held that the High Court had not judiciously and reasonably exercised its discretion in passing the notification under Section 4(1) of the Act.

27. In Ramjas Foundation v. Union of India", a Bench of three Judges had held that mere retaining the possession or delay on the part of the authority to pass award are not grounds to challenge the notification under Section 4(1) and declaration under Section 6, and the laches was held to be ground to dismiss the writ petition. Accordingly, this Court allowed the appeal and dismissed the writ petition.

28. In Ram Chand v. Union of India, another Bench of three Judges of this Court had held that because of inordinate delay in approaching the court after the entire process of acquisition was over pursuant to notification under Section 4(1) and declaration under Section 6, the court was not justified in quashing the same. Same view was reiterated in Bhoop Singh v. Union of India, Aflatoon v. Li. Governor of Delhi, Indrapuri Griha Nirman Sahakari Samiti Ltd. v. State of Rajasthan, H.D. Vora v. State of Maharashtra and Girdharan Prasad Missir v. State of Bihar?

29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were created in the case is hardly a ground for interference. The Division Bench of the High Court was not

> ***right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches***.*"*
>
> [Emphasis Supplied]

31. A similar issue, as involved in the present petition, also came up for consideration before the Apex Court in the case of ***State of West Bengal and others vs. M/s Saanti Ceramics Pvt. Ltd. and Anr. SLP (C) No(s). 33701/2018***, and in the said case, the Apex Court by taking into consideration the judgment in the case of ***Abheyram (supra)*** and also the case of ***Municipal Corporation of Greater Bombay (supra)*** formulated the issues for consideration and has held as under***:*** -

> *"11. That being said, our determination of this question necessitates the analysis on following counts:*
>
> *i) The intended scope and beneficiaries of this Court's decision in Kedar Nath Yadav (supra) and whether Respondent No.1 also falls within that ambit;*
>
> *ii) The procedural principles governing the applicability of judicial orders quashing acquisition proceedings to parties who did not participate in the original litigation; and*
>
> *iii)* ***The legal consequences of long delay in questioning the acquisition and acceptance of compensation without demur****.*
>
> *xxx-xxx-xxx-xxx-xxx-xxx*
>
> *19. Beyond this distinction, we are constrained to add that even the established procedural principles preclude Respondent No.1's claim.* ***Orders quashing acquisition proceedings may operate either in personam or in rem. Where the Court quashes acquisition on grounds personal to individual objectors such as vitiated consideration of their specific objections under Section 5-A-the relief operates in***

> ***personam and benefits only those parties who contested the matter before judicial forums. On the other hand, where the Court declares the entire process void ab initio on grounds going to the root of acquisition-the relief operates in rem. It is thus clear that the benefits of quashing do not accrue to persons who were not parties unless the Court has struck down the entire acquisition on fundamental grounds applicable to all****.*
>
> *xxx-xxx-xxx-xxx-xxx-xxx*
>
> *22. Turning to the third aspect,* ***the acquisition attained finality qua Respondent No.1 through its own inaction. Respondent No.1 remained silent for an entire decade from 2006 to 2016, making no attempt to challenge the acquisition despite the award being passed on 25.09.2006. Once the proceedings conclude in the award and possession is taken without challenge, the Court would not entertain any belated grievance from the interested person. In stark contrast, affected farmers brought their plight before the High Court through PIL in November, 2006 itself challenging procedural violations at the earliest opportunity. Hence, Respondent No.1 cannot now seek parity and question what had been conclusively settled*****.***
>
> [Emphasis Supplied]

32. Reliance may be placed on the decision of the Apex Court in the case of ***Roop Diamonds v. Union of India, 1989 2 SCC 356*** wherein the petitioners therein had sought relief in terms of order passed by the High Court of Judicature at Bombay for issuance of appropriate writs to the authorities to revalidate the export license based on earlier order passed by the learned Single Judge of the Bombay High Court, which was affirmed by the Division Bench of the said Court and also by the Apex Court. It was contended that the petitioners therein were similarly placed and that the petitioners in the earlier cases were

granted relief by the Bombay High Court and therefore the said relief should be given to them also. The petitioners in the case had in fact directly filed the writ petition invoking Article 32 of the Constitution before the Apex Court. The said writ petitions were rejected and the Apex Court declined to interfere in the matter by stating that the petitioners were re-agitating claims which they had not pursued for several years. The petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. According to the Apex Court, their case could not be considered on the analogy of one where a law had been declared unconstitutional and void by a court so as to enable persons to recover monies paid under compulsion of law later so declared void. The Apex Court held that there was an unexplained inordinate delay in preferring the writ petition which was brought years later. Therefore, the delay in filing the writ petition persuaded the Apex Court to decline to interfere with the case and rejected the writ petition. Even though certain persons were granted relief in the matter of import facilities, the said relief was not granted to the petitioners therein by the Apex Court, having regard to the delay and laches in approaching the court. Similarly, in the case of ***Om Prakash vs. Union of India; (2010) 4 SCC 17***, the Apex Court declined to grant relief to the petitioners in the matter pertaining to acquisition of land. In fact, in the said case at paragraph 86, the Apex Court has observed as follows:

> *"**86**. Even though the arguments advanced by learned counsel for the appellants appeared to be attractive, but on deeper scanning of the same, **we are of the opinion that on account of omission of the appellants, they cannot be granted dividend for their own defaults. The appellants should have been more careful, cautious and vigilant to get the matters listed along with those 73 petitions, which were ultimately allowed by the High Court. Not having done so, the appellants have obviously to suffer the consequence of issuance of the notifications under Section 4 and further declaration under Section 6 of the Act**."*
>
> [Emphasis Supplied]

33. Reference could also be made to the decision of the Apex Court in the case of ***Tamil Nadu Housing Board versus L. Chandrashekharan (Dead) by LRs; (2010) 2 SCC 786***, wherein it has been held that quashing of acquisition proceedings at the instance of one or two land owners would not have the effect of nullifying the entire acquisition. While saying so, the Apex Court has relied upon several other decisions.

34. Much reliance has been placed by the learned counsel for the petitioners on para 61 of the judgment by the Apex Court in the case of ***State of Uttar Pradesh** v. **Radheshyam Nigam**; **reported in (2011) 5 SCC 553,*** which reads as under:-

> *"61. The argument of the learned senior counsel for the respondents that the Court may not annul the impugned acquisition because land of other villages had already been acquired and other land owners of village Makora have not come forward to challenge the acquisition of their land cannot be entertained and the Court cannot refuse to protect the legal and constitutional 74 rights of the appellants' merely because*

> *the others have not come forward to challenge the illegitimate exercise of power by the State Government. It is quite possible that others may have, due to sheer poverty, ignorance and similar handicaps not been able to avail legal remedies for protection of their rights, but that cannot be made basis to deny what is due to the appellants."*

35. In the considered opinion of this court, the said judgment may have no applicability in the given facts and circumstances of the case, as in the case of ***Radheshyam (supra),*** the Apex Court has granted relief to the persons who have approached the court and the court was dealing with the objection of the State that relief may not be granted as the proceedings of acquisition have been completed in the absence of challenge, whereas, in the instant case, the petitioners chose not to challenge the proceedings within reasonable time.

36. Thus, this court is of the considered opinion that the benefit of the order passed by this court on 31.03.1995 in M.P. No. 1198/1989 cannot be extended to the present petitioners and these petitions are to be dismissed on the ground of delay and laches as the land acquisition award was passed on 14.02.1991 and the petitioners herein, after accepting the payment of the land acquisition award, have approached this court in the year 2013 and 2014 for the first time challenging the notification under Section 4 r/w Section 17(1) of the Act of 1894 issued on 17.02.1989 and the notification under Section 6 of the Act of 1894 which was issued on 27.07.1989. Even filing of civil suit by the petitioners in WP No.189/2014 in the year 2009, was after 18 years from the date of

acceptance of award and therefore would not render any assistance to their belated claim. Similarly, the order passed by the Division Bench of this court *vide* order dated 04.01.2013 passed in R.P. No. 443 of 2012 by the respondent No.3 arising out of the order passed by this court on 31.03.1995 in M.P. No. 1198/1989 would not` give rise to any fresh cause of action to the petitioners herein. ***The issue no. (i) is answered accordingly***.

37. The next point for consideration is as to whether these petitions are hit by principles of estoppel and acquiescence. In this regard, the contention of the counsel for the respondent No. 3 is that the petitioners, having accepted compensation for acquisition of their respective lands, they are estopped from challenging the acquisition. In other words, it would amount to acquiescence to the acquisition process.

38. Admittedly, it is not the case of the petitioners that they have not received any compensation after participating in the land acquisition process. Moreover, Annexure R/2 of the return filed by the Respondent No. 3 also indicates that the possession of the subject land was also taken from the petitioners way back in the year 2000 by drawing proceedings. However, it is the case of the petitioners that since the initial notification used by the collector dated 17.02.1989 under Section 4 of the Act of 1894 was itself without jurisdiction as held by this Court in M.P. No. 1198/1989, it cannot be said that the petitioners acquiesced to the

acquisition process and will be barred by estoppel. Therefore, the petitioners submit that such notification being without jurisdiction is *non est* and the present petition deserves to succeed. To substantiate this averment, the petitioners have relied upon the decision of the Hon'ble Apex Court in ***Harshit Harish Jain v. State of Maharashtra, (2025) 3 SCC 365.***

39. In the considered opinion of this Court, the said submission made by the petitioners is incorrect and cannot be accepted. The record reveals that after passing of the award dated 14.02.1991, the land comprising of 14.260 hectares was not the subject matter of challenge in the order dated 31.03.1995 passed by this Court in M.P. No. 1198/1989 or other connected cases. This area of 14.260 hectares of land includes the land of the petitioners. The statement filed by the Respondent No. 3 in their return reveals that the petitioners have duly accepted the amount of compensation in lieu of acquisition of their lands in accordance with the award dated 14.02.1991 and possession of the subject land was also taken from the petitioners way back in the year 2000. As already discussed hereinabove, the order dated 31.03.1995 passed by this Court in M.P. No. 1198/1989 was an *"order in personam"* and any benefit from the said order will not enure to the benefit of the petitioners as their lands were not the subject matter of the said order.

Moreover, the reliance placed by petitioners upon ***Harshit Harish Jain (supra)*** is misplaced as the said judgment is in the context of act of Chief Controlling Revenue Authority to review its own orders in stamp matters when such statutory power is not conferred on it. Further, it is equally well settled in law that the judgments cannot be read as Euclid's theorems nor as provisions of a statute and cannot be taken out of their context. In ***Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani, (2004) 8 SCC 579 : 2004 SCC OnLine SC 1243***, it was held that:

> "***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.* ***Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments****. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761) Lord MacDermott observed : (All ER p. 14 C-D)*
>
> *"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge,..."*
>
> [Emphasis Supplied]

40. Be that as it may. Having accepted the compensation under the award, the petitioners are estopped from challenging the acquisition after almost 22 years of passing of the award, particularly when it is the case of the respondents that various permanent structures as mentioned in Annexure R-9 including office building, bank and post office, canteen, farmers' rest house, public toilet and other structures total 21 in number have been developed and constructed and the Mandi is functional and the position of the respondent No.3 has been materially altered after acquisition proceedings stood concluded long ago. Therefore, the doctrine of estoppel and acquiescence is squarely applicable to the present case and the petitioners are not entitled to challenge the acquisition proceedings. ***Issue No.2 is answered accordingly***.

41. The further argument raised by the counsel appearing for the petitioner that as per google imagery, land of the petitioners is lying vacant and the petitioners are still in possession of the land in question is stated to be rejected for the reason that documents filed by the Respondent No. 3 along with the additional return demonstrate that construction has already been done on the said land and Mandi is functional. In the considered opinion of this Court, the same amounts to substantial use and development over the lands as per the purpose for which it was acquired. Just because some of the land is reflected vacant in google imagery, the same cannot be a ground to cause interference at

this stage as in Market Yard / Krishi Upaj Mandi lands are also required to kept vacant for various purposes. Moreover, even the prayer made by the petitioners in the petition itself indicates that they have lost possession of the land long back.

42. In view of the aforesaid discussions and considerations, and answers to the issues framed, no case for interference is made out. The petitions, being bereft of merits, are hereby ***dismissed***.

(AMIT SETH)
JUDGE