* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 01.04.2022
Date of decision: 19th May, 2022

\+ **W.P.(C) 14025/2018**

RAJINDER KUMAR AGARWAL ..... Petitioner
Through: Ms.Vandana Sharma, Adv.

versus

UNION OF INDIA AND ORS. ..... Respondents
Through: Mr.Ripu Daman Bhardwaj, CGSC for UOI.
Mr.Jayant K. Mehta, Sr. Adv. with Ms.Gurmeet Bindra, Mr.Arun Sri Kumar & Mr.Atharv Gupta, Advs. for R-5, 7, 10, 12 & 14 to 21.
Mr.Shiranshu Kumar & Mr.Sankalp Jain, Advs. for Review Applicant.
Mr.Yeeshu Jain, Standing Counsel for R-22 with Ms.Jyoti Tyagi, Adv.
Mr.Rajesh Yadav, Sr. Adv. with Ms.Ruchira V. Arora, Adv. (Amicus Curiae)

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J.

REVIEW PETITION 107/2021 & CM APPL. 22997/2021, CM APPL. 29182/2021 & CM APPL. 30776/2021

1. The present Review Petition has been filed by the respondent no. 9, Mr Raman Aggarwal, and Mr Pradeep Aggarwal, who claims themselves to be the legal heirs of Late Shri R.S. Chiranji Lal, seeking review and modification of the Order dated 21.01.2020 passed by this Court in the above writ petition.

2. By the Order dated 21.01.2020, this Court had directed the respondent no. 22 to notify the appointment of a new Arbitrator under Section 7(1)(b) of the Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (hereinafter referred to as 'the Resettlement of Displaced Persons Act') within a period of eight weeks of the date of the order, and for this purpose, expeditiously liaison with the Ministry of Law for seeking the nomination of the Arbitrator from them.

3. The petitioner had filed the above writ petition claiming that the respondent nos. 1 to 4 had failed to appoint an Arbitrator under the Resettlement of Displaced Persons Act to determine the amount of the compensation payable to the petitioner and the respondent nos. 5 to 21 under the said Act.

4. In the Writ Petition, the petitioner had claimed that pursuant to the Order dated 19.04.1996, passed by the Division Bench of this Court in CWP No. 2685 of 1993, titled ***Shri Prakash Chand Aggarwal & Ors.* v. *Union of India***, the respondent no. 3 had appointed one Sh. Shiv Prakash Sahai as an Arbitrator, who, however, tendered his resignation as an Arbitrator upon his retirement on 17.10.2000. Another writ petition,

being WP(C) 4548 of 2012, ***Sh. Praveen Aggarwal & Ors.*** **v.** ***Union of India & Ors.***, was thereafter filed, seeking appointment of a substitute Arbitrator, whereon, this Court, by an Order dated 31.07.2012, directed that the petitioner must first address a communication calling upon the competent authority to appoint an Arbitrator, and only in case of inaction for a reasonable period of time after receipt of such communication, would the cause of action arise for the petitioner to file any petition in accordance with the law. The petitioner claims to have filed such representation and also a reminder thereto, however, having received no response, had filed the above petition praying for the following reliefs:

> "*a) appoint an Arbitrator, in the above matter to fix the compensation as per the direction dated: 19-04-1996, passed by the Hon'ble High Court of Delhi at New Delhi, in a Writ Petition (Civil) No. 2685/1993, titled as "Shri. Prakash Chand Aggarwal Vs. Union of India", at the earliest.*
> *b) direct the Ld. Arbitrator to pass the award under the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act.*"

5. As noted hereinabove, this Court disposed of the above writ petition by the Order dated 21.01.2020, with the following directions:

> "*In view of the above statement, it is evident that the notification of the Arbitrator has to be done by the respondent no. 22 though at the nomination of the Ministry of Law, Department of Legal Affairs.*
>
> *In view of the above, it is directed that the respondent no. 22 shall notify the appointment of*

> *a new Arbitrator within a period of eight weeks from today. For this purpose the respondent no. 22 shall expeditiously liaison with the Ministry of Law for seeking the nomination of the Arbitrator from them.*
>
> *The petition is disposed of in the above terms.*"

6. It now appears from the Review Petition that as the respondent no. 22 failed to appoint an Arbitrator in terms of the above Order, a Contempt Petition, being Cont. Cas(C) No. 417 of 2021, ***Mr Jagdish Prasad Aggarwal & Ors.* v. *Govt of NCT of Delhi (Through Secretary Smt. Rinku Dhugga) & Anr.***, was filed by the respondent no. 7 along with others. The said Contempt Petition was disposed of by an Order dated 16.07.2021 as, in the meantime, an Arbitrator came to be appointed by an Order dated 15.07.2021.

7. At this stage, the review applicants filed the above-mentioned Review Petition, claiming therein that with the promulgation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the LARR Act'), as the Award had not yet been passed under the Resettlement of Displaced Persons Act, the compensation would have to be computed in terms of the provision of the LARR Act and that too only by the Collector. It was submitted that the Arbitrator would have no jurisdiction to determine the compensation payable to the petitioner/respondents and/or to any other applicants/persons entitled to such compensation. The review applicants, therefore, prayed for recall of the Order dated 21.01.2020, and for a direction to the concerned Collector to determine the compensation to be paid to the owners of the

subject land which had been acquired by the Government of India, Ministry of Rehabilitation through Delhi Administration, in a time-bound manner. The review applicants also filed an application, being CM No. 22997 of 2021, praying for a stay of the operation of the Order dated 21.01.2020 passed in the writ petition.

8. While the above Review Petition was pending before this Court, the respondent nos. 5, 7, 10, 12, 14 to 21 filed an application, being CM No. 29182 of 2021, seeking clarification of the Order dated 21.01.2020 to the effect that the new Arbitrator appointed by the respondent no. 22 shall determine the compensation as per the provision of the LARR Act read with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removable of Difficulties) Order, 2015 (hereinafter referred to as 'the 2015 Order'). Therefore, while the applicants, in CM No. 29182 of 2021, acceded to the jurisdiction of the Arbitrator to determine the compensation, they prayed for a clarification that the compensation is to be determined by the Arbitrator as per the provision of the LARR Act and the 2015 Order.

9. The review applicants filed yet another application, being CM No. 30776 of 2021, stating that with the promulgation of the Repeal and Amending Act, 2016 (hereinafter referred to as the 'RAA'), the Resettlement of Displaced Persons Act had been completely repealed and, therefore, the appointment of an Arbitrator by the respondent no. 22, in terms of the Order dated 21.01.2020, was bad in law.

10. As the issue with respect to the LARR Act and the RAA had not been considered by this Court while passing the Order dated 21.01.2020, this Court entertained the Review Petition as also the above applications.

This Court also felt it appropriate to appoint an Amicus Curiae to assist this Court, keeping in view the importance of the issues raised by the parties. Accordingly, by an Order dated 04.02.2022, Mr. Rajesh Yadav, the learned senior advocate, was requested to act as an Amicus Curiae to assist this Court.

11. The learned Amicus Curiae has filed his synopsis of submissions and also orally addressed this Court. At the outset, the Court expresses its gratitude to Mr. Yadav, the learned Amicus Curiae for his efforts and able assistance rendered to this Court.

12. The learned counsel for the review applicants submits that the Resettlement of Displaced Persons Act is mentioned in Entry 10 of the Fourth Schedule to the LARR Act. Section 105 of the LARR Act empowers the Central Government to extend the provisions of the LARR Act relating to the determination of the compensation to the said Act. The Government has, thereafter, issued the 2015 Order extending the provisions of the LARR Act, *inter alia* to the Resettlement of Displaced Persons Act. He submits that, therefore, the compensation is now to be determined under the LARR Act, which could only be by way of an Award issued by the Collector. He submits that now it would be the Collector alone who would have jurisdiction to determine the compensation payable to the landowners in terms of Sections 26 and 29 of the LARR Act, even for acquisitions made under the Resettlement of Displaced Persons Act for which Award had not been pronounced, and not the Arbitrator.

13. He submits that the 2015 Order has been issued in order to obliviate the discrimination meted out on quantum of compensation

payable to the landowners for the acquisition of their land under different acquisition enactments, and to extend the benefits available to the landowners under the LARR Act to similarly placed landowners whose lands were acquired under the enactments specified in the Fourth Schedule of the LARR Act, including Resettlement of Displaced Persons Act.

14. Placing reliance on Section 24 of the LARR Act, he submits that as the same starts with a non-obstante clause and is a latter central enactment, it would prevail over all other related enactments, including the Resettlement of Displaced Persons Act. In this regard, he also places reliance on the judgments of the Supreme Court in ***Union of India & Anr.*** **v.** ***Tarsem Singh & Ors.,*** (2019) 9 SCC 304, and ***Indore Development Authority*** **v.** ***Manoharlal & Ors.,*** (2020) 8 SCC 129.

15. Further, placing reliance on the judgment of the Supreme Court in ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation*** **v.** ***Mahesh & Ors***, (2022) 2 SCC 772, he submits that the effect of repeal of the Resettlement of Displaced Persons Act by the RAA is that while the acquisition proceedings are preserved till the stage of the making of the Award, in terms of Section 24(1)(a) of the LARR Act, where the Award is not made, the provisions of the LARR Act would apply, including that the compensation is now to be determined by the Collector by applying the principles and the provisions of the LARR Act.

16. On the other hand, the learned senior counsel appearing for the respondent nos. 5, 7, 10, 12, 14 to 21, that is, applicants in CM No. 29182 of 2021, submit that Section 24 of the LARR Act is applicable only *qua*

the acquisitions initiated under the Land Acquisition Act, 1894 and not *qua* the acquisitions under the Resettlement of Displaced Persons Act.

17. He submits though the Resettlement of Displaced Persons Act has been repealed by the RAA, in terms of Section 4 of the RAA, the repeal shall not affect any acquisition made under the Resettlement of Displaced Persons Act and/or the right of the landowners to receive compensation in lieu of their land. He submits that the remedies/fora available for the determination of such compensation also remain undisturbed. In support, he places reliance on the judgment of the Supreme Court in ***Union of India* v. *International Sindhi Panchayats & Ors.***, (2020) 11 SCC 679.

18. He submits that in view of the 2015 Order read with Section 105(3) of the LARR Act, the compensation, however, is to be determined applying the principles and the provisions of the LARR Act. In support he places reliance on the judgment of the Supreme Court in ***Tarsem Singh*** (supra).

19. Mr Yadav, the learned Amicus, submits that Section 24 of the LARR Act applies only to acquisitions which have been initiated under the Land Acquisition Act, 1894 and not to any other Central and State enactments. In support, he places reliance on the judgment of the Supreme Court in ***Bangalore Development Authority & Anr.* v. *State of Karnataka & Ors.***, 2022 SCC OnLine SC 69, and the judgment of the Karnataka High Court, titled as ***L. Ramareddy* v. *State of Karnataka, Urban Development Department & Ors.***, 2020 SCC OnLine Kar 3435. He submits that, therefore, Section 24 of the LARR Act does not apply to the acquisition made under the Resettlement of Displaced Persons Act. He further submits that from the conjoint reading of Section 105(3) of the

LARR Act and the 2015 Order, only the provisions relating to the determination of the compensation in accordance with the First Schedule shall apply to cases of land acquisition under the Resettlement of Displaced Persons Act, that is, only Sections 25 to 30 of the LARR Act shall be made applicable and not Section 24 of the LARR Act, as Section 24 is not a provision 'relating to the determination of compensation'.

20. On the RAA, he submits that Section 4 thereof saves the pending proceedings. In the present case, as the arbitration proceedings for the determination of compensation have been pending since 02.07.1999, the same would be saved, and the compensation, in terms of Section 7(1)(e) of the Resettlement of Displaced Persons Act, shall have to be determined having due regard to Section 23 of the Land Acquisition Act, 1894 alone.

21. Placing reliance on the judgment of the Supreme Court in ***Executive Engineer*** (supra), he submits that as Section 24(1) of the LARR Act is not attracted, the new Arbitrator appointed in the present case shall have due regard to the provisions of Section 23(1) of the Land Acquisition Act, 1894 in determining the compensation payable to the landowners. He submits that this would also be the effect of Section 6 of the General Clauses Act, 1897. In support, he also places reliance on the judgment of the Supreme Court in ***Kolhapur Canesugar Works Ltd. & Anr.* v. *Union of India & Ors.***, (2000) 2 SCC 536.

22. He submits that the provisions of Sections 25 to 30 of the LARR Act would apply only where the acquisition is subsequent to 01.01.2014, that is, the date of coming into force of the LARR Act.

23. Ms. Tyagi, the learned counsel for the respondent no. 22, submits that the provisions of the LARR Act have no application to the facts of the present case. She submits that the acquisition having taken place under the Resettlement of Displaced Persons Act, the compensation shall have to be determined applying the principles of the Land Acquisition Act, 1894, and that such compensation shall have to be determined by an Arbitrator appointed under Section 7 of the Resettlement of Displaced Persons Act.

24. I have considered the submissions of the learned counsels for the respective parties and the learned Amicus Curiae.

25. At the outset, the provisions of the Resettlement of Displaced Persons Act with regard to the method of determining the compensation payable to the landowners needs to be noted. Section 7 of the Resettlement of Displaced Persons Act provides that failing an agreement on the amount of compensation payable, the State Government shall appoint an Arbitrator to determine the same. The Arbitrator, while making an Award, shall have due regard to the provisions of sub-section (1) of Section 23 of the Land Acquisition Act, 1894, for which purpose the market value of the land shall be determined as on the date of publication of the Notice under Section 3 of the Resettlement of Displaced Persons Act, or on the first date of September 1939, with an addition of 40 per cent, whichever is less. Section 7 of the Resettlement of Displaced Persons Act is reproduced herein below:

> "***7. Method of determining compensation.***—*(1) Where any land has been acquired under this Act, there shall be paid compensation, the amount of which shall be determined in the manner and in*

accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the State Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court;

(c) The State Government may, in any particular case, nominate a person having expert knowledge as to the nature and condition of the land acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(e) the arbitrator, in making his award, shall have due regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894):

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or on the first day of September, 1939, with an addition of 40 per cent, whichever is less:

Provided further that where such land has been held by the owner thereof under a purchase made before the first day of April, 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be.

(2) The arbitrator shall, in awarding any compensation under this section, apportion the

amount thereof between such persons, if any, as may appear to him to be entitled thereto.

(3) An appeal shall lie to the High Court from the award of the arbitrator appointed under this Act, and the decision of the High Court shall be final.

(4) Save as provided in this section, nothing in any law for the time being in force shall apply to arbitrations under this section."

26. In the present case, admittedly, the acquisition of land of the predecessor of the petitioner and the respondents was under the Resettlement of Displaced Persons Act. As there was no agreement reached on the amount of compensation payable, an Arbitrator had been appointed to determine the same vide order dated 20.05.1998 passed by the respondent no. 3.

27. While the proceedings before the Arbitrator kept pending and in fact, the Arbitrator resigned and substitute Arbitrator had not been appointed, the LARR Act came into force on 01.01.2014. The Resettlement of Displaced Persons Act finds mentioned in Entry 10 to the Fourth Schedule of the LARR Act, which, in turn, is in reference to Section 105 of the LARR Act. Section 105 of the LARR Act is reproduced herein below:

"***105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.***—*(1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.*

(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

> *(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.*
>
> *(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.*"

28. A reading of the above provisions would show that the LARR Act was not to apply to the enactments relating to the land acquisition specified in the Fourth Schedule, however, the Central Government was empowered to direct that any of the provisions of the LARR Act relating to the determination of the compensation in accordance with the First Schedule; and rehabilitation and resettlement specified in the Second and Third Schedules, respectively, being beneficial to the affected families,

shall apply to the cases of the land acquisition under the said enactments specified in the Fourth Schedule.

29. The Central Government promulgated the Ordinance(s) dated 31.12.2014, 03.04.2015 and 30.05.2015, substituting Section 105(3) of the LARR Act, to read as under:

> "*(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.*"

30. Therefore, the First, Second and the Third Schedules of the LARR Act were made applicable even to acquisitions made *inter alia* under the Resettlement of Displaced Persons Act with effect from 01.01.2015.

31. The Central Government thereafter issued the 2015 Order, which reads as under:

> "***MINISTRY OF RURAL DEVELOPMENT***
>
> ***ORDER***
>
> *New Delhi, the 28th August, 2015*
>
> ***S.O. 2368(E).—****Whereas, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) (hereinafter referred to as the RFCTLARR Act) came into effect from 1st January, 2014;*
>
> *And whereas, sub-section (3) of Section 105 of the RFCTLARR Act provided for issuing of notification to make the provisions of the Act relating to the determination of the compensation, rehabilitation and resettlement applicable to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;*

And whereas, the notification envisaged under sub-section (3) of Section 105 of the RFCTLARR Act was not issued, and the RFCTLARR (Amendment) Ordinance, 2014 (9 of 2014) was promulgated on 31st December, 2014, thereby, inter-alia, amending Section 105 of the RFCTLARR Act to extend the provisions of the Act relating to the determination of the compensation and rehabilitation and resettlement to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;

And whereas, the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was promulgated on 3rd April, 2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2014;

And whereas, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) was promulgated on 30th May, 2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015);

And whereas, the replacement Bill relating to the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was referred to the Joint Committee of the Houses for examination and report and the same is pending with the Joint Committee;

As whereas, as per the provisions of article 123 of the Constitution, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) shall lapse on the 31st day of August, 2015 and thereby placing the land owners at the disadvantageous position, resulting in denial of benefits of enhanced compensation and rehabilitation and resettlement to the cases of land acquisition under the 13 Acts specified in the Fourth Schedule to the RFCTLARR Act as extended to the land owners under the said Ordinance;

And whereas the Central Government considers it necessary to extend the benefits available to the land owners under the RFCTLARR Act to similarly placed land owners whose lands are acquired under the 13 enactments specified in the Fourth Schedule; and accordingly the Central Government keeping in view the aforesaid difficulties has decided to

extend the beneficial advantage to the land owners and uniformly apply the beneficial provisions of the RFCTLARR Act, relating to the determination of compensation and rehabilitation and resettlement as were made applicable to cases of land acquisition under the said enactments in the interest of the land owners;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:—

***1.** (1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.*

(2) It shall come into force with effect from the 1st day of September, 2015.

***2.** The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.*

[F. No. 13011/01/2014-LRD]
K. P. KRISHNAN, Addl. Secy."

32. In ***Tarsem Singh*** (supra), the Supreme Court considered the effect of the 2015 Order in relation to the National Highways Act, 1956, which is also mentioned in Entry 7 of the Fourth Schedule to the LARR Act, and observed, as under:

"***48.*** *It is thus clear that the Ordinance as well as the notification have applied the principle contained in Nagpur Improvement Trust[Nagpur*

Improvement Trust v. Vithal Rao, (1973) 1 SCC 500], as the Central Government has considered it necessary to extend the benefits available to landowners generally under the 2013 Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, the National Highways Act being one of the aforesaid enactments. This being the case, it is clear that the Government has itself accepted that the principle of Nagpur Improvement Trust [Nagpur Improvement Trust v. Vithal Rao, (1973) 1 SCC 500] would apply to acquisitions which take place under the National Highways Act, and that solatium and interest would be payable under the 2013 Act to persons whose lands are acquired for the purpose of National Highways as they are similarly placed to those landowners whose lands have been acquired for other public purposes under the 2013 Act. This being the case, it is clear that even the Government is of the view that it is not possible to discriminate between landowners covered by the 2013 Act and landowners covered by the National Highways Act, when it comes to compensation to be paid for lands acquired under either of the enactments. The judgments delivered under the 1952 Act as well as the Defence of India Act, 1971, may, therefore, require a re-look in the light of this development. [The Defence of India Act, 1971, was a temporary statute which remained in force only during the period of operation of a proclamation of emergency and for a period of six months thereafter — vide Section 1(3) of the Act. As this Act has since expired, it is not included in the Fourth Schedule of the 2013 Act] In any case, as has been pointed out hereinabove, Chajju Ram [Union of India v. Chajju Ram, (2003) 5 SCC 568], has been referred to a larger Bench. In this view of the matter, we are of the view that the view of the Punjab and Haryana High Court [Union of India v. Tarsem Singh, 2018 SCC OnLine P&H 6036, Jang Bahadur v. Union of India, 2018 SCC OnLine P&H 6034, Union of India v. Abhinav Cotspin Ltd., 2016 SCC OnLine P&H 19319] is correct, whereas the view of the Rajasthan High

Court [Banshilal Samariya v. Union of India, 2005 SCC OnLine Raj 572 : 2005-06 Supp RLW 559] is not correct."

33. In view of the above, there can be no doubt that the provisions of the LARR Act 'relating to the determination of the compensation in accordance with the First Schedule; rehabilitation and resettlement in accordance with the Second Schedule; and infrastructure and amenities in accordance with the Third Schedule', shall apply to all the cases of land acquisition under the Resettlement of Displaced Persons Act, including the present case, that has not culminated into an Award by the Arbitrator till the coming into force of the 2015 Order. There is also no reason to limit such application to only the acquisitions made after the coming into force of the LARR Act and/or the 2015 Order. The provisions being beneficial in nature, must have full application to all pending proceedings as well.

34. The only question, therefore, remaining is as to whether the provisions 'relating to the determination of the compensation' also implies necessarily that such compensation must be determined by the Collector alone and that it cannot be determined by the Arbitrator appointed under the Resettlement of Displaced Persons Act prior to coming into force of the LARR Act and/or the Ordinance(s) issued therein and/or the 2015 Order.

35. As noted hereinabove, though Section 105(1) of the LARR Act provides that the provisions of the Act shall not apply to the enactments relating to the land acquisition specified in the Fourth Schedule, which includes the Resettlement of Displaced Persons Act, first by way of

Ordinance(s) and thereafter, by way of the 2015 Order, the provisions of the First, Second and Third Schedules have been made applicable to the land acquisition under the said enactments. The First Schedule provides for the components which shall constitute the minimum compensation package to be given to those whose land is acquired and to tenants referred to in clause (c) of Section 3 of the LARR Act. The same includes the market value of the land, the factor by which the market value is to be multiplied in the case of rural and urban areas, the value of assets attached to the land or building, solatium, et cetera. The Second Schedule provides for the elements of rehabilitation and resettlement entitlement for all the affected families. The same includes provisions of housing units in case of displacement, land for land, offer for developed land, et cetera. The Third Schedule provides for infrastructural facilities and basic minimum amenities to be provided at the cost of the Requisitioning Authority to ensure that the resettled population in the new village or colony can secure for themselves a reasonable standard of community life and can attempt to minimise the trauma involved in displacement. The same includes roads, drainage, safe drinking water, et cetera.

36. The LARR Act entrust various functions undertaken in the process of acquisition of land to the Collector. These include undertaking and completing the exercise of updating the land records; granting an opportunity of hearing and making a report thereon to the appropriate Government containing his recommendations on the objections of any person interested in any land which has been notified under sub-section (1) of Section 11 of the LARR Act; publishing a summary of rehabilitation and resettlement scheme along with a declaration in terms

of sub-section (1) Section 19 of the LARR Act; et cetera. The Collector also has been charged with the function of publishing a public notice inviting the claims for compensation and rehabilitation and resettlement from those interested in the land, inquiring into the objection against the measurements and/or value of the land, and making an Award of – (a) the true area of the land; (b) the compensation as determined under Section 27 along with Rehabilitation and Resettlement Award as determined under Section 31, and which, in his opinion, should be allowed for the land; and (c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

37. Sections 26 to 29 of the LARR Act provide for the criteria for assessing and determining the market value of the land and assets attached to the land, damage sustained by the person interested, the value of the things attached to the land or building, et cetera. Section 30 relates to the award of solatium.

38. Therefore, the LARR Act clearly distinguishes between the powers and functions entrusted to the Collector and the manner in which the compensation, rehabilitation and resettlement package has to be determined. In terms of the 2015 Order, what is made applicable to the acquisition made under the Resettlement of Displaced Persons Act are the principles on which the award of compensation, rehabilitation and resettlement are to be made. There is no provision empowering the Collector or obliging him with any duty with respect to the acquisitions

made under the enactments in the Fourth Schedule, including the Resettlement of Displaced Persons Act.

39. The submission of the learned counsel for the review applicants that Section 24 of the LARR Act would have such an effect, cannot be accepted. Section 24 of the LARR Act is reproduced herein below:

> "***24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—****(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),—*
>
> *(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or*
>
> *(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.*
>
> *(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (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.*"

40. A reading of the above provision would clearly show that it is applicable only where the acquisition proceedings have been initiated under the Land Acquisition Act, 1894. Section 24 of the LARR Act is not applicable where the land acquisition proceedings have been initiated under any other Central or State enactments, including the enactments mentioned in the Fourth Schedule to the LARR Act, which in turn includes the Resettlement of Displaced Persons Act. This has also been so held by the Supreme Court in ***Bangalore Development Authority*** (supra), observing as under:

> "***19.*** *The 2013 Act repeals only the LA Act and not any other Central or State enactment dealing with acquisition. Therefore, what is sought to be saved under Section 24 of the 2013 Act is only acquisitions which had been initiated under the LA Act and not those acquisitions which had been initiated under any other Central or State enactment. The expression contained in Section 24 of the LA Act cannot be given extensive interpretation by adding words into the provision, in the absence of the provision itself giving rise to any such implication. We are of the view that 2013 Act would not regulate the acquisition proceedings made under the BDA Act.*
>
> ***20.*** *Section 105 of the 2013 Act states that the provisions of the 2013 Act shall not apply to the enactments in the Fourth Schedule or are to apply with modifications in terms of notification issued by the Central Government under Section 105(3) of the 2013 Act. Section 105 does not apply to the present case.*
>
> ***21.*** *Recently, a Division Bench of the Karnataka High Court in Sri. L. Ramareddy v. the*

State of Karnataka [W.A. No. 1415/2018 (LA-BDA) disposed of on 1st December, 2020] has considered identical questions in great detail and has concluded as under:

> *"**44.** In the circumstances, it is concluded and held that Section 24 does not take within its scope nor does it apply to acquisitions which have been initiated under the provisions of any other enactment particularly, State enactment, such as, BDA Act. The said Section is restricted to only those acquisitions which have been initiated under the provisions of the LA Act, 1894 only. Subject to compliance of the conditions mentioned under subsection (2) of Section 24, the land owner would be entitled to the deeming provision regarding lapse of acquisition and not otherwise."*
>
> ***22.** We are in complete agreement with this judgment of the High Court.*"

41. In fact, the above judgment also states that even though such Central or State Act may, by reference, have made the provisions of the Land Acquisition Act, 1894 applicable, the provisions of the LARR Act would not, by implication, apply to acquisitions made under such Acts merely by repeal of the Land Acquisition Act, 1894 by the LARR Act. In this regard, I may quote paragraph 24 of the judgment, as under:

> "***24.** In view of the above, the Learned Judge of the High Court in Sri Sudhakar Hegde (supra) was not justified in holding that the provisions of LA Act that are made applicable to the BDA Act are in the nature of legislation by reference. The learned Judge has also erred in holding that in view of the repeal of LA Act by coming into force of 2013 Act, the corresponding provisions of 2013 Act would regulate acquisition proceedings under the BDA Act and that this would include determination of compensation in accordance with 2013 Act. It is hereby clarified*

> *that since LA Act has been incorporated into the BDA Act so far as they are applicable, the provisions of 2013 Act are not applicable for the acquisitions made under the BDA Act. Therefore, the judgment of the learned Single Judge of the High Court in Sri Sudhakar Hegde (supra) and other connected matters is hereby overruled.*"

42. In view of the above, the submission of the review applicants that in view of Section 24 of the LARR Act and/or the 2015 Order, only the Collector can now make Award of compensation and the Arbitrator appointed under the Resettlement of Displaced Persons Act will be *functus officio*, cannot be accepted. A reading of the provisions of the LARR Act, along with the law settled by the Supreme Court, clearly indicates that while beneficial provisions of the LARR Act, as contained in the First Schedule, the Second Schedule and the Third Schedule, would apply to the acquisitions made under the Resettlement of Displaced Persons Act, where the Award has not been made by the Arbitrator in terms of Section 7 of the Resettlement of Displaced Persons Act, the pending proceedings shall continue before the Arbitrator itself.

43. Herein, I may note the submissions of the learned Amicus that Sections 25 to 30 of the LARR Act would apply only when the acquisition is subsequent to 01.01.2014 and would not be applicable to the facts of the present case, as the acquisition was prior to that date. I cannot agree with the said submission. Though the LARR Act is prospective in nature and Section 24 thereof does not apply to an acquisition made under the Resettlement of Displaced Persons Act, the effect of Section 105 the LARR Act and the 2015 Order cannot be restricted only by reason thereof. The said provisions and the 2015 Order

have to be given full effect to, and this would include making the provisions of Sections 25 to 30 of the LARR Act alongwith the First, Second and Third Schedules of the LARR Act applicable to the acquisitions pending on the date of the 2015 Order, as in the present case.

44. At this stage, I would also consider the effect of the RAA. Section 2 of the RAA repeals the enactments specified in the First Schedule thereto, to the extent mentioned in the fourth column thereof. As far as the Resettlement of Displaced Persons Act, the whole Act stood repealed by the RAA with effect from 06.05.2016.

45. Section 4 of the RAA contains the saving clause, which is reproduced herein-under:

> "***4. Savings.*** *—The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;*
>
> *and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;*
>
> *nor shall this Act affect any principle or rule of law, or established jurisdiction, from or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from any enactment hereby repealed;*
>
> *nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure*

or other matter or thing not now existing or in force."

(Emphasis supplied)

46. Therefore, notwithstanding the repeal of the Resettlement of Displaced Persons Act by the RAA, such repeal shall not affect any right acquired, or any remedy, or proceedings in respect thereof or jurisdiction under the repealed Act. The same is also the effect on Section 6 of the General Clauses Act, 1897, which is reproduced herein below:

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

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

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

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

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

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

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

47. In ***Neena Aneja & Anr.* v. *Jai Prakash Associates Ltd***., (2022) 2 SCC 161, the Supreme Court has recently considered the effect of Section 6 of the General Clauses Act on the plea of transfer of pending Consumer Complaints on the repeal of the Consumer Protection Act, 1986, by the Consumer Protection Act, 2019, and held as under:

> "***82.*** *Section 6 of the General Clauses Act provides governing principles with regard to the impact of the repeal of a central statute or regulation. These governing principles are to apply, "unless a different intention appears". Clause (c) of Section 6 inter alia stipulates that a repeal would not affect "any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed". The right to pursue a validly instituted consumer complaint under the 1986 Act is a right which has accrued under the law which was repealed. Clause (e) of Section 6 stipulates that the repeal will not affect, inter alia, any "legal proceeding or remedy in respect of any such right ... as aforesaid". Any such legal proceedings may be continued as if the repealing legislation had not been passed. Clause (c) of Section 6 has the effect of preserving the right which has accrued. Clause (e) ensures that a legal proceeding which has been initiated to protect or enforce "such right" will not be affected and that it can be continued as if the repealing legislation has not been enacted. The expression "such a right" in clause (e) evidently means the right which has been adverted to in clause (c). The plain consequence of clause (c) and clause (e), when read together is twofold: first, the right which has accrued on the date of the institution of the consumer complaint under the 1986 Act (the repealing law) is preserved; and second, the enforcement of the right through the instrument of a legal proceeding or remedy will not be affected by the repeal.*
>
> ***83.*** *Having stated the above position, we need to harmonise it with the principle that the right to a forum is not an accrued right, as*

discussed in Part C of this judgment. Simply put, while Section 6(e) of the General Clauses Act protects the pending legal proceedings for the enforcement of an accrued right from the effect of a repeal, this does not mean that the legal proceedings at a particular forum are saved from the effects from the repeal. The question whether the pending legal proceedings are required to be transferred to the newly created forum by virtue of the repeal would still persist. As discussed, this Court in New India Assurance [New India Assurance Co. Ltd. v. Shanti Misra, (1975) 2 SCC 840] and Maria Cristina [Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto, (1979) 1 SCC 92] has held that forum is a matter pertaining to procedural law and therefore the litigant has to pursue the legal proceedings at the forum created by the repealing Act, unless a contrary intention appears. This principle would also apply to pending proceedings, as observed in Ramesh Kumar Soni [Ramesh Kumar Soni v. State of M.P., (2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340], Hitendra Vishnu Thakur [Hitendra Vishnu Thakur v. State of Maharashtra, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] and Sudhir G. Angur [Sudhir G. Angur v. M. Sanjeev, (2006) 1 SCC 141]. In this backdrop, what is relevant to ascertain is whether a contrary intent to the general rule of retrospectivity has been expressed under the 2019 Act to continue the proceedings at the older forum.

84. *Now, in considering the expression of intent in the repealing enactment in the present case, it is apparent that there is no express language indicating that all pending cases would stand transferred to the fora created by the 2019 Act by applying its newly prescribed pecuniary limits. In deducing whether there is a contrary intent, the legislative scheme and procedural history may provide a relevant insight into the intention of the legislature.*

85. *The 2019 Act, as indicated by its long title, is enacted to provide "for protection of the interests of consumers". The Statement of Objects and Reasons took note of the tardy disposal of*

cases under the erstwhile legislation. Thus, the necessity of inducing speed in disposal was to protect the rights and interests of consumers. The 2019 Act has taken note of the evolution of consumer markets by the proliferation of products and services in light of global supply chains, e-commerce and international trade. New markets have provided a wider range of access to consumers. But at the same time, consumers are vulnerable to exploitation through unfair and unethical business practices. The Act has sought to address "the myriad and constantly emerging vulnerabilities of the consumers". The recurring theme in the new legislation is the protection of consumers which is sought to be strengthened by procedural interventions such as strengthening class actions and introducing mediation as an alternate forum of dispute resolution.

86. *In this backdrop, something specific in terms of statutory language — either express words or words indicative of a necessary intendment would have been required for mandating the transfer of pending cases. One can imagine the serious hardship that would be caused to the consumers, if cases which have been already instituted before NCDRC were required to be transferred to SCDRCs as a result of the alteration of pecuniary limits by the 2019 Act. A consumer who has engaged legal counsel at the headquarters of NCDRC would have to undertake a fresh round of legal representation before SCDRC incurring expense and engendering uncertainty in obtaining access to justice. Likewise, where complaints have been instituted before SCDRC, a transfer of proceedings would require consumers to obtain legal representation before the District Commission if cases were to be transferred. Such a course of action would have a detrimental impact on the rights of consumers. Many consumers may not have the wherewithal or the resources to undertake a fresh burden of finding legal counsel to represent them in the new forum to which their cases would stand transferred.*"

48. Applying the above principles to the repeal of the Resettlement of Displaced Persons Act by the RAA, it is apparent that the RAA does not create any other forum to which the pending proceedings under the Resettlement of Displaced Persons Act are to be transferred. I have already held hereinabove that Section 24 or Section 105 of the LARR Act or the 2015 Order also does not create an alternate forum for the determination of the compensation under the Resettlement of Displaced Persons Act. Section 6 of the General Clauses Act, 1897, therefore, has to be given full effect to, and the proceedings pending before the Arbitrator under the Resettlement of Displaced Persons Act must be continued and brought to its logical conclusion by the Arbitrator alone. In this regard, I may also refer to the Order passed by the Supreme Court in ***International Sindhi Panchayat*** (supra), whereby the Supreme Court directed that Section 6 of the General Clauses Act, 1897, are applicable to the Displaced Persons Claims and Other Laws Repeal Act, 2005 and that the authorities under the repealed Act shall continue to decide the cases and proceedings pending on the date of the said repeal.

49. In the present case, the Arbitration proceedings commenced prior to the repeal of the Resettlement of Displaced Persons Act by the RAA. This Court, vide its Order dated 21.01.2020, merely directed the appointment of a substitute Arbitrator. In case, the submission of the review applicants on the effect of the RAA is to be accepted, there will be no forum where the pending claims under the Resettlement of Displaced Persons Act will be adjudicated and determined. This certainly cannot be the effect of the RAA.

50. Therefore, even with the repeal of the Resettlement of Displaced Persons Act, the proceedings before the Arbitrator for determining the compensation under the Resettlement of Displaced Persons Act, being pending on the date of the repeal, had to continue under the said Act.

51. In summary, I hold that:

(a) In view of Section 105 of the LARR Act read with the 2015 Order, and the provisions of the LARR Act being beneficial to the landowners, compensation, in the present case, shall be determined by the Arbitrator applying the provisions of Sections 25 to 30 of the LARR Act alongwith the First, Second and Third Schedules of the LARR Act;

(b) The proceedings before the Arbitrator shall continue and be brought to its logical end. The Collector shall have no jurisdiction to determine the compensation payable for acquisitions made under the Resettlement of Displaced Persons Act;

(c) Keeping in view that the acquisition is of the year 1953 and the Arbitration proceedings have been pending since at least 1998, I direct that the Arbitrator now appointed, must complete the proceedings expeditiously and pronounce his Award expeditiously, preferably within a period of six months from this Order.

52. The review petition and the other pending applications are disposed of in the above terms.

NAVIN CHAWLA, J

May 19, 2022/Arya/P/DJ