CGHC010003552022 2026:CGHC:46846

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 283 of 2022

Order Reserved on : 06.10.2026

Order Delivered on : 05.11.2026

Bajrang Lal S/o Late Shri Jaganath Prasad Agrawal, Aged About 72 Years R/o Opposite Bhagat Complex, Dhabra Road, Kharsia, Police Station - Kharsia, District - Raigarh Chhattisgarh.

--- **Petitioner**

Versus

1 - State Of Chhattisgarh Through - Secretary Revenue And Disaster Management Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District - Raipur Chhattisgarh

2 - Collector, Raigarh District - Raigarh Chhattisgarh

3 - Sub Divisional Officer (Revenue) Cum Land Acquisition Officer Kharsia, District - Raigarh Chhattisgarh

4 - Executive Engineer Water Resources Department Hasdeo Bango Project Canal, Brahmapali - Branch, Kharsia, District - Raigarh Chhattisgarh

--- **Respondents**

WPC No. 573 of 2022

1 - Bajrang Lal S/o Late Shri Jaganath Prasad Agrawal Aged About 72 Years R/o Opposite Bhagat Complex, Dhabra Road, Kharsia, Police Station Kharsia, District Raigarh Chhattisgarh

2 - Shrinivas S/o Late Shri Jaganath Prasad Agrawal Aged About 70 Years R/o Opposite Bhagat Complex, Dhabra Road, Kharsia, Police Station Kharsia, District Raigarh Chhattisgarh

3 - Subhas Chand S/o Late Shri Jaganath Prasad Agrawal Aged About 68 Years R/o Opposite Bhagat Complex, Dhabra Road, Kharsia, Police Station Kharsia, District Raigarh Chhattisgarh

4 - Chedilal S/o Late Shri Jaganath Prasad Agrawal Aged About 55 Years R/o Opposite Bhagat Complex, Dhabra Road, Kharsia, Police Station Kharsia, District Raigarh Chhattisgarh

---Petitioners

Versus

1 - State Of Chhattisgarh Through Secretary, Revenue Department Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

2 - Collector Raigarh, District Raigarh Chhattisgarh

3 - Sub Divisional Officer (Revenue) Cum Land Acquisition Officer Kharsia, District Raigarh Chhattisgarh

4 - Executive Engineer Water Resources Department Hasdeo Bango Project Canal, Brahmapali Branch, Kharsia, District Raigarh Chhattisgarh

--- Respondents

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. S.P. Kale assisted by Mr. Abhishek Singh, Advocates
For Respondents-State	:	Mr. Priyank Rathi, Government Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Since common questions of law and fact arise for consideration in both the present writ petitions, and the challenge in both the matters is directed against the order dated 27.09.2021 passed by the Collector, Raigarh, rejecting the respective claims of the petitioners for return of the unutilised portions of their lands acquired for construction of a canal under the Hasdeo Bango Project, both the writ petitions have been clubbed together, heard analogously and are being decided by this common order.

2. For the sake of convenience, the pleadings and documents in W.P.(C) No. 283 of 2022 are being referred to as the lead case, unless the context otherwise requires.

3. By filing these writ petitions under Article 226 of the Constitution of India, the petitioners assail the legality, validity and propriety of the common order dated 27.09.2021 passed by the Collector, Raigarh, in the respective revenue proceedings, whereby their applications seeking return of the unutilised portions of the lands acquired for construction of the canal under the Hasdeo Bango Project have been rejected. The principal grievance of the petitioners is that, although the acquisition proceedings were initiated and the awards were passed for a specified public purpose, namely, construction of the canal, the canal construction has since been completed, and substantial portions of the acquired lands have allegedly remained unutilised for the purpose for which they were acquired. According to the petitioners, the revenue authorities, upon conducting demarcation and enquiry proceedings, recorded findings regarding the portions of the acquired lands that had not been affected by the canal construction. Despite the availability of such reports, the Collector rejected their claims by referring to public and governmental interest, without adequately disclosing the legal or factual basis for retaining the unutilised portions of the lands. The petitioners, therefore, seek quashing of the impugned order and a

consequential direction to the respondent authorities to restore the unutilised lands to them.

4. For the sake of completeness, the reliefs sought in W.P.(C) No. 283 of 2022, which is being treated as the lead case, are extracted hereinbelow:

> "*10.1 Hon'ble High Court may kindly be pleased to call the entire records pertaining to the case of petitioner for return the unutilised land of petitioner.*
>
> *10.2 Hon'ble Court may kindly be pleased to quash the order dated 27/09/2021 (ANNEXURE-P/1).*
>
> *10.3 Hon'ble Court may kindly be pleased to direct the respondent authorities to return the unutilised land of petitioner, acquired by respondents.*
>
> *10.4 Any other relief, which Hon'ble Court deems fit and proper may also kindly be granted to the Petitioner in the interest of justice.*
>
> *10.5 Cost of the Petition be also awarded."*

5. The reliefs sought in W.P.(C) No. 573 of 2022 are substantially similar. The petitioners therein seek quashing of the order dated 27.09.2021 passed by the Collector, Raigarh, whereby their application for return of the unutilised portions of the acquired land was rejected. They further seek a direction to the respondent authorities to restore the unutilised land acquired from them,

along with such other reliefs, including costs, as this Court may deem fit and proper. Since the precise wording and numbering of the prayer clauses in the two petitions are not identical in the material presently available, the foregoing statement records the substantive reliefs without purporting to reproduce the prayer clauses of W.P.(C) No. 573 of 2022 verbatim.

6. The brief facts, as pleaded by the petitioners in both the writ petitions, are that the petitioners are owners of agricultural lands situated at Village Brahmanpali, Patwari Halka No. 15, Tehsil Kharsia, District Raigarh, Chhattisgarh. The lands were acquired by the State authorities for construction of a canal under the Hasdeo Bango Project, also referred to in the pleadings as the Minimata Bango Canal Project. In the lead case, the acquired lands comprise Khasra Nos.18/2, 18/3-क, 18/3-ख, 18/4-ख, 18/4-ड, 18/4-च and 18/5, admeasuring a total area of 0.598 hectare. In the connected writ petition, the lands comprise Khasra Nos.4/5, 5/1, 16/2 and 18/9, admeasuring a total area of 0.356 hectare. The acquisition proceedings culminated in an award dated 28.02.2004 passed by the Land Acquisition Officer-cum-Sub Divisional Officer (Revenue), Kharsia, with the requisite approvals stated to have been accorded by the competent authorities. The petitioners further plead that they had raised objections to the proposed acquisition on 15.01.2004. Their case is that, although the lands were acquired for the specific public purpose of constructing the

canal, the acquisition did not result in utilisation of the entire acquired area, as substantial portions remained unaffected by the canal alignment and construction. It is also their grievance that the compensation payable in respect of the acquired lands has not been received, as asserted in their pleadings.

7. The petitioners further plead that the construction of the canal was completed more than a decade ago and that, thereafter, they approached the revenue authorities for demarcation of their respective lands to ascertain the precise areas actually affected by the canal and those which remained unutilised. Pursuant to their requests, the Revenue Inspector and the concerned Patwari conducted demarcation proceedings and submitted reports to the Tehsildar, Kharsia. In the lead case, the petitioner relies upon the demarcation and enquiry proceedings to contend that 0.121 hectare of Khasra No. 18/3-क was affected, while the remaining 0.121 hectare was not utilised, and that 0.055 hectare of Khasra No. 18/3-ख was affected, while a further area of 0.030 hectare remained unutilised. According to him, the other acquired khasra lands were likewise not affected by the canal construction. In the connected writ petition, the demarcation report dated 23.05.2016, along with the panchnama, is relied upon to contend that only 0.040 hectare out of Khasra No. 16/2 and 0.090 hectare out of Khasra No. 18/9 were affected by the canal, while the remaining areas, namely, 0.081 hectare and 0.080 hectare respectively,

were not affected or utilised for the canal construction. The petitioners further assert that the other acquired khasra lands were also not utilised for the said purpose. These particulars are relied upon to demonstrate that the claims for restoration were not founded merely on the petitioners' assertions but were supported by reports prepared during the revenue enquiry.

8. It is further pleaded that, upon the petitioners approaching the Collector, Raigarh, for return of the unutilised portions of their acquired lands, the Collector registered the relevant proceedings on 01.10.2018 and directed the Sub Divisional Officer (Revenue), Kharsia, to conduct an enquiry and submit a report. The Tehsildar, Kharsia, submitted an enquiry report dated 14.08.2020 recording the areas stated to have been affected by the canal and the remaining portions which had not been utilised for the purpose of construction. The petitioners also rely upon the public notice dated 28.05.2019 issued during the enquiry and the subsequent proceedings culminating in the forwarding of the matter by the Sub Divisional Officer (Revenue) on 10.12.2020 for further action. According to the petitioners, the revenue record thus contained material demonstrating that substantial portions of the acquired lands had remained unaffected by the canal construction. They contend that, notwithstanding such material, the Collector, by the impugned order dated 27.09.2021, rejected their applications by referring to public and governmental interest, without identifying the specific public purpose for which the unutilised portions were

required to be retained or indicating the statutory provision authorising such retention. Aggrieved thereby, the petitioners have approached this Court seeking interference with the impugned order and restoration of the unutilised lands.

9. Mr. S.P. Kale, learned counsel, assisted by Mr. Abhishek Singh, learned counsel appearing for the petitioners in both the writ petitions, submits that the impugned order dated 27.09.2021 is unsustainable in law as it suffers from non-application of mind and fails to consider the material collected during the enquiry conducted by the revenue authorities. According to learned counsel, the acquisition of the petitioners' lands was undertaken for a specific and identifiable public purpose, namely, construction of a canal under the Hasdeo Bango Project. Once the canal construction had been completed and the lands were no longer required for that purpose, the authorities were required to consider the claims for restoration in accordance with the applicable statutory framework. Learned counsel submits that the petitioners do not seek to question the acquisition merely because their lands were acquired for a public purpose; rather, their grievance is confined to the retention of those portions which, according to the official demarcation and enquiry reports, were never utilised for the purpose underlying the acquisition.

10. Learned counsel for the petitioners further submits that the revenue reports assume particular significance because the

demarcation was undertaken by the Revenue Inspector and the concerned Patwari, and the findings were thereafter considered in the proceedings before the Tehsildar and the Sub Divisional Officer (Revenue). It is contended that the reports specifically identify the portions of the lands affected by the canal and distinguish them from the remaining areas which were found to be unaffected or unutilised. The Collector, therefore, could not have rejected the petitioners' claims by making a general reference to public and governmental interest while leaving the material findings in the enquiry reports unaddressed. According to learned counsel, if the respondent authorities intended to retain the remaining lands for any other public purpose, it was incumbent upon them to disclose the nature of that purpose and the legal basis on which such retention was considered permissible. The absence of any reasoned consideration of the demarcation reports, it is urged, renders the impugned order arbitrary and contrary to the settled principles governing the exercise of administrative and quasi-judicial powers.

11. Learned counsel also places reliance upon Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, ‘Act, 2013’), which provides for the return of unutilised land, acquired under the Act, 2013, where such land remains unutilised for a period of five years from the date of taking over possession, either to the original owner or owners or their legal heirs, as the

case may be, or to the Land Bank of the appropriate Government, in the manner prescribed by the appropriate Government. It is submitted that the provision embodies the legislative concern that land acquired for a public purpose should not remain unutilised indefinitely without consideration of the consequences contemplated by law. According to learned counsel, the Collector was required to examine the petitioners' claims in the light of the applicable statutory provisions and the factual findings recorded during the enquiry, rather than reject them by invoking an unspecified public interest. Learned counsel contends that the long period which has elapsed since the acquisition, coupled with the alleged completion of the canal and the official reports identifying unutilised portions, warranted a reasoned determination of the petitioners' entitlement.

12. Learned counsel lastly submits that the impugned order has the effect of depriving the petitioners of the benefit of their land without disclosing any legally sustainable justification for retaining the portions which, according to the enquiry reports, were not utilised for the acquired purpose. It is urged that the mere expression of public or governmental interest cannot substitute for a reasoned decision founded upon relevant facts and the applicable law. The Collector was required to consider whether the lands in question had in fact remained unutilised, whether the statutory provision relied upon by the petitioners applied to the acquisition in question, and what consequences followed under

the governing legal framework. Learned counsel, therefore, prays that the impugned order dated 27.09.2021 be quashed and the respondent authorities be directed to restore the unutilised portions of the acquired lands to the petitioners. In the alternative, it is submitted that, at the very least, the matter deserves reconsideration by the competent authority after due examination of the demarcation reports, the acquisition records and the applicable statutory provisions, by passing a reasoned order in accordance with law.

13. Per contra, Mr. Priyank Rathi, learned Government Advocate appearing for the State/respondents, vehemently opposes the submissions advanced by learned counsel for the petitioners and submits that both the writ petitions are devoid of merit and deserve to be dismissed. He submits that the lands in question were acquired in accordance with the provisions of the Land Acquisition Act, 1894 (for short, 'the Act of 1984'), pursuant to a proposal dated 08.07.2003 submitted by the Executive Engineer, Minimata Bango Canal Project Division, Kharsia, for construction of the Minimata Bango Canal, which is a linear irrigation project. The land acquisition proceedings were registered as Land Acquisition Case No. 139/A-82/2002-03, wherein a total area of 7.549 hectares belonging to 61 landholders was acquired for the said public purpose. The notification under Section 6 of the Act of 1894 was published in the Gazette on 17.10.2003 and in the concerned village on 23.10.2003, and, after completion of the

requisite proceedings, the award was passed on 28.02.2004. Learned State counsel submits that the petitioners did not raise their objections within the prescribed period, which, according to the respondents, expired on 03.11.2003, and the objections subsequently submitted on 15.01.2004 were belated. He further submits that the petitioners did not challenge the acquisition proceedings at the relevant time and cannot, after the lapse of nearly two decades, seek to reopen a concluded acquisition under the guise of seeking return of the alleged unutilised portions of the acquired lands.

14. Learned Government Advocate further submits that upon completion of the acquisition proceedings and taking possession of the acquired lands, the same vested absolutely in the State Government, free from all encumbrances, in terms of the applicable provisions of the Act of 1894. He contends that such vesting is not affected merely because the landowners have not withdrawn or accepted the compensation determined under the award. In support of his submissions, learned counsel places reliance upon the decisions of the Supreme Court in ***Satendra Prasad Jain v. State of Uttar Pradesh, (1993) 4 SCC 369***, and ***Indore Development Authority v. Manoharlal, (2020) 8 SCC 129.*** He further submits that the Act of 1894 does not contain any provision corresponding to Section 101 of the Act, 2013, providing for the return of land on the ground of non-utilisation for a specified period. Since the acquisition in the present cases was

completed under the Act of 1894 and the award was passed on 28.02.2004, the petitioners cannot, according to learned State counsel, invoke Section 101 of the Act, 2013, i.e. the subsequent enactment to claim restoration of the acquired lands. He submits that this legal position was also communicated by the competent revenue authority through its letter dated 18.06.2021, which forms part of the respondents' documents and was relied upon while rejecting the petitioners' claims. Learned counsel further contends that directing the return of the acquired lands in the present cases would have wider implications for the remaining landholders whose lands were acquired under the same acquisition proceedings and would create an unwarranted precedent affecting the implementation and administration of public infrastructure projects.

15. Learned State counsel next submits that the petitioners have incorrectly proceeded on the assumption that the portions of land not submerged in the canal water or not visibly occupied by the canal structure must necessarily be treated as unutilised land. According to him, the Minimata Bango Canal is a linear irrigation project, and the acquisition of land for such a project necessarily involves technical assessment of the alignment, width, depth, gradient, topography, soil conditions and other engineering requirements. The land acquired for the project is not confined merely to the portion through which water flows but also includes areas required for excavation, inspection, supervision,

maintenance and other allied operational requirements. Learned counsel submits that the canal has already been constructed and has been providing irrigation since 2005–06. The land situated along its banks is required to facilitate inspection and maintenance, while the remaining portions may be required for future operational and public purposes. He places reliance upon the opinion dated 01.12.2020 issued by the Executive Engineer, Water Resources Department, and the communication dated 31.05.2021 issued by the Sub Divisional Officer, Minimata Bango Canal Sub Division No. 6, Kharsia, in which the departmental authorities recorded that excavation work had been carried out on the acquired land and that the remaining portions could be utilised in the interest of the public and the State in future. Learned counsel, therefore, submits that the opinion of the beneficiary department, based upon the technical requirements of the irrigation project, could not have been displaced merely by a report prepared by a Revenue Inspector during the revenue proceedings, particularly when the Water Resources Department had not effectively participated in those proceedings. He accordingly submits that the Collector, Raigarh, after considering the departmental opinion and the relevant circumstances, rightly declined the petitioners' request for return of the acquired lands.

16. Learned Government Advocate lastly submits that the writ petitions suffer from delay and laches, as the acquisition proceedings culminated in the award dated 28.02.2004, whereas

the petitioners sought return of the lands after the canal had already been constructed and had been functioning for several years. He contends that the extraordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution of India ought not to be exercised to unsettle a long-concluded acquisition or interfere with the functioning of an established public irrigation project on the basis of claims raised after an inordinate lapse of time. Learned counsel also disputes the petitioners' allegations regarding buildings and rice mills allegedly standing upon acquired land, submitting that the constructions depicted in the photographs filed as Annexure P/11 are situated on khasra numbers which, according to the State, were not acquired for the canal project. He further submits that the allegations concerning other constructions are vague and unsupported by the acquisition records. In view of the acquisition having been completed under the Act of 1894, the vesting of the acquired lands in the State Government, the continuing utility of the lands for the canal and its allied purposes, the absence of a statutory provision under the Act of 1894 providing for return of the acquired lands, and the delay in approaching this Court, learned Government Advocate prays that both the writ petitions be dismissed.

17. I have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

18. Vide order dated 15.06.2026, this Court directed respondent No. 4 to file an affidavit specifically disclosing whether the lands claimed by the petitioners to be unutilised were, in fact, unutilised and whether the same were not required for any purpose in the near future, as asserted by the petitioners. This Court observed that the question as to whether the acquired lands had remained unutilised and whether the same would be required for any future purpose could not be determined merely on the basis of the petitioners' assertions; rather, such determination required verification by the competent technical authority, namely, the concerned Engineer of the Water Resources Department. Accordingly, respondent No. 4 was directed to place its considered opinion on record. The Court further directed respondent No. 2, namely, the Collector, Raigarh, District Raigarh, Chhattisgarh, to file a detailed affidavit explaining the necessity of retaining the lands in question, supported by the relevant drawings, maps and other technical documents indicating the proposed and existing utilisation of the acquired lands. The aforesaid directions were issued to enable this Court to examine the rival contentions in the light of the technical requirements of the canal project and to ascertain whether the portions claimed by the petitioners to be unutilised were, in fact, required for the existing or future purposes of the project.

19. In pursuance of the order dated 15.06.2026, respondent No. 2, namely, the Collector, Raigarh, has filed an affidavit stating that

the acquisition proceedings were initiated pursuant to the requisition dated 08.07.2003 submitted by the Executive Engineer, Minimata Bango Canal Project Division, Kharsia, for acquisition of private lands measuring 7.549 hectares belonging to 61 landholders, including the petitioners, for construction of the Minimata Bango Canal Project. It has been stated that the acquisition proceedings culminated in the passing of the award dated 28.02.2004 and that, following the acquisition, the Sub-Distributary Major Canal was constructed over the acquired lands. The Collector has further stated that open spaces have been left along both the left and right banks of the canal for inspection pathways, maintenance, supervision and other operational requirements of the Water Resources Department. According to the affidavit, the acquired lands are, therefore, being utilised for the purposes of the canal project and cannot be treated as unutilised merely because every portion of the acquired area is not occupied by the canal structure or submerged under water. The Collector has also asserted that the remaining portions of the acquired lands have been earmarked or reserved for future departmental requirements, including the construction of hutments, storerooms and site offices. In support of the aforesaid stand, respondent No. 2 has placed reliance upon the drawing and map annexed to the affidavit as Document-A, purportedly depicting the utilisation of the acquired lands and the portions reserved for the future requirements of the Water Resources

Department. The Collector has accordingly sought to justify the retention of the acquired lands on the ground that the same continue to be associated with the functioning, maintenance and future operational requirements of the canal project.

20. Likewise, in pursuance of the order dated 15.06.2026, respondent No. 4, namely, the Executive Engineer, Water Resources Department, Minimata Bango Canal Division No. 5, Kharsia, District Raigarh, Chhattisgarh, has filed an affidavit placing on record the technical stand of the beneficiary department in relation to the lands in question. In the said affidavit, the Executive Engineer has reiterated that the acquisition proceedings were initiated pursuant to the departmental requisition dated 08.07.2003 and culminated in the award dated 28.02.2004 in respect of lands belonging to 61 landholders. It has further been stated that the Sub-Distributary Major Canal has been constructed over the acquired lands and that the open spaces along its left and right banks are necessary for inspection, maintenance and supervision of the canal. The Executive Engineer has specifically asserted that the lands claimed by the petitioners to be unutilised are, in fact, required for the operational and allied purposes of the irrigation project and that the remaining portions have been earmarked or reserved for future departmental requirements, including the construction of hutments, storerooms and site offices. On this basis, respondent No. 4 has disputed the petitioners' contention that the acquired lands have become

surplus or are no longer required for the public purpose for which they were acquired. The affidavit, therefore, seeks to establish that the retention of the lands is justified by the technical and administrative requirements of the canal project and that the question of their utilisation cannot be determined solely by reference to whether a particular portion is presently occupied by the canal or directly affected by the flow of water.

21. The undisputed facts emerging from the record are that the lands in question, situated at Village Brahmanpali, Patwari Halka No. 15, Tehsil Kharsia, District Raigarh, were acquired for the Minimata Bango Canal Project under the Act of 1894, pursuant to the proposal dated 08.07.2003, culminating in the award dated 28.02.2004. In W.P.(C) No. 573 of 2022, the petitioners claim return of land bearing Khasra Nos. 4/5, 5/1, 16/2 and 18/9, admeasuring 0.356 hectare, whereas in W.P.(C) No. 283 of 2022, the claim concerns Khasra Nos. 18/2, 18/3-क, 18/3-ख, 18/4-ख, 18/4-ड, 18/4-च and 18/5, admeasuring 0.598 hectare. Their grievance is that certain portions of the acquired lands have allegedly remained unutilised, as reflected in the demarcation reports and revenue proceedings, and ought, therefore, to be restored by invoking Section 101 of the Act, 2013. The respondents oppose the claim, contending that the acquisition was completed under the Act of 1894, the canal has been constructed and is operational, and the adjoining spaces are required for inspection, maintenance, supervision and future

departmental purposes. Pursuant to the order dated 15.06.2026, the Collector, Raigarh, and the Executive Engineer concerned have filed affidavits reiterating the departmental requirements and placed a drawing/map on record regarding the use and proposed use of the acquired land. Further, the absence of the canal structure on a particular portion does not necessarily establish that the land is surplus to the requirements of the project. The petitioners have not challenged the original acquisition or the award dated 28.02.2004, and their claim must stand or fall on the existence of an applicable statutory right to restoration. In the absence of such an established right, the alleged non-utilisation of certain portions, by itself, cannot warrant a direction for return of the acquired land.

22. The Hon'ble Supreme Court, in ***Govt. of A.P. and another v. Syed Akbar, (2005) 1 SCC 558,*** while considering the issue of restitution of acquired land on the ground of its subsequent non-utilisation, has reiterated the settled legal position that once the land has been acquired and has vested in the Government free from all encumbrances, mere non-utilisation of the acquired land for the purpose for which it was initially acquired does not confer any right upon the erstwhile owner to seek restitution or reconveyance of such land. Referring to its earlier decisions, including ***Chandragauda Ramgonda Patil v. State of Maharashtra, (1996) 6 SCC 405*** and ***Northern Indian Glass Industries v. Jaswant Singh, (2003) 1 SCC 335***, the Hon'ble

Supreme Court observed that land acquired for a public purpose may be utilised for any other public purpose and that mere non-utilisation does not entitle the erstwhile owner, who has already received adequate compensation, to seek restitution of the acquired land. The relevant observations are extracted hereinbelow:-

> *"12. In the case Chandragauda Ramgonda Patil v. State of Maharashtra [(1996) 6 SCC 405] claim of the petitioner for restitution of the possession of the land acquired pursuant to the resolution of the State Government was rejected. In para 2, this Court observed thus: (SCC p. 406)*
>
> > *"2. … We do not think that this Court would be justified in making direction for restitution of the land to the erstwhile owners when the land was taken way back and vested in the Municipality free from all encumbrances. We are not concerned with the validity of the notification in either of the writ petitions. It is axiomatic that the land acquired for a public purpose would be utilised for any other public purpose, though use of it was intended for the original public purpose. It is not intended that any land which remained unutilised, should be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of the*

notification. Under these circumstances, the High Court was well justified in refusing to grant relief in both the writ petitions."

13. Yet in another recent decision, this Court in Northern Indian Glass Industries v. Jaswant Singh [(2003) 1 SCC 335] referring to the case of Chandragauda Ramgonda Patil [(1996) 6 SCC 405] and other cases held that: (SCC p. 340, para 12)

"12. If the land was not used for the purpose for which it was acquired, it was open to the State Government to take action but that did not confer any right on the respondents to ask for restitution of the land."

Paras 10 and 11 of the said judgment read thus: (SCC p. 340)

"10. In Chandragauda Ramgonda Patil v. State of Maharashtra [(1996) 6 SCC 405] it is stated that the acquired land remaining unutilised was not intended to be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of notification.

11. Yet again in C. Padma v. Dy. Secy. to the Govt. of T.N. [(1997) 2 SCC 627] it is held that acquired land having vested in the State and the compensation having been paid to the claimant, he was not

entitled to restitution of possession on the ground that either original public purpose had ceased to be in operation or the land could not be used for other purpose."

14. From the position of law made clear in the aforementioned decisions, it follows that (1) under Section 16 of the Land Acquisition Act, the land acquired vests in the Government absolutely free from all encumbrances; (2) the land acquired for a public purpose could be utilised for any other public purpose; and (3) the acquired land which is vested in the Government free from all encumbrances cannot be reassigned or reconveyed to the original owner merely on the basis of an executive order."

23. The aforesaid legal position has been further reiterated and authoritatively explained by the Constitution Bench of the Hon'ble Supreme Court in ***Indore Development Authority*** (supra), while considering the scope and applicability of Section 101 of the Act, 2013. The Hon'ble Supreme Court, after examining the scheme of the Act, 2013, has categorically held that Section 101, which provides for return of unutilised land, operates only in respect of land acquired under the Act, 2013 and cannot be invoked in relation to an acquisition made under the Act of 1894. The relevant observations of the Hon'ble Supreme Court are extracted hereinbelow:-

*"**Return of Unutilised Land under the 2013 Act***

363. It was submitted that Section 101 provides for return of unutilised land under the 2013 Act. Section 101 provides that in case land is not utilised for five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government. Section 101 reads as under:

> *"**101. Return of unutilised land.**—When any land, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.*
>
> *Explanation.—For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government-owned vacant, abandoned, unutilised acquired lands and tax-delinquent properties into productive use."*

364. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilised land. Section 101 cannot be said to be applicable to an acquisition made under the 1894 Act. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with respect to all lands acquired under the 2013 Act as the expression used in the opening part is "When any land, acquired under this Act remains unutilised". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions of Section 101 cannot be applied to the acquisitions made under the 1894 Act. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the 2013 Act. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilised under Section 24(2)."

24. Very recently, the Hon'ble Supreme Court in the matter of ***Chennai Metropolitan Development Authority represented by its Member Secretary v. Dharmalingam and others, 2026 SCC OnLine SC 485***, while dealing with the similar issue, has held as under :-

"6. It may be observed that Section 16-B addresses a situation where land acquired

has been allocated for a specific 'public purpose but has not actually been used for the said purpose. It emphasises an enabling power given to the State to forfeit the land as a penalty, after which the-land shall vest in the State free from all encumbrances.

7. Section 48-B, which was similarly introduced into the LA Act through a State Amendment, allows for the transfer of the land to the original owner and reads as follows:

> ***"48-B. Transfer of land to original owner in certain cases**.-Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in Sub-section (1A) and (2) of Section 23, if any, paid under this Act."*

8. On a plain reading of Section 48-B. we find that the State Government must, at the outset, be satisfied that the land vested in it "is not required for the purpose for which it was acquired, or for any other public purpose". This satisfaction on the part of the State is a sine qua non for any action of the Government under this provision, and only

thereafter the Government 'may' decide to revert such land to the willing original owner. The scheme of Section 48-B of the LA Act, in our considered opinión, does not envisage any enforceable right in favour of the expropriated landowner to seek transfer of the acquired land. Rather, it confers a discretion upon the State to permit re-conveyance of the land to the original landowner in certain circumstances, being that the acquired land can neither be utilised for the original purpose of acquisition nor for any other public purpose. Unless this two-pronged condition is fulfilled, the question of exercise of the State's discretion does not arise.

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14. It is trite law that no timeline can be imposed on the Government or its beneficial agencies for putting the acquired land to use for the public purpose once acquisition is lawfully completed. Perhaps the only exception in such a case would lie in situations where the urgency provision under Section 17 of the LA Act has been invoked.

15. The above postulate is a reflection of the general circumspection that Constitutional Courts ought to undertake when exercising their extraordinary jurisdiction to direct the release of lawfully acquired land. This principle was also recognised by a two-Judge bench of this Court. including one of us

(Surya Kant, J., as he then was), in a case titled Nandkishor Babulal Agrawal v. The State of Maharashtra, the relevant extract of whereof is reproduced below:

> *"11. In our considered view, the High Court would be extremely circumspect to issue a mandamus in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution, directing to release a lawfully acquired land only on the premise that such land has not been utilized for the public purpose for which it was acquired. There is no gainsaying that once the land vests in the State or its authorities, the 'public purpose of its acquisition can be changed at a later stage. All that is required is that such land should be utilized for public purposes only. In fact, there cannot be a time limit within which the authorities are expected to utilize the acquired land. The Municipalities or such other agencies are expected to have long-term plans for regulated development of urban areas and for that purpose, certain pockets of land are required to be kept vacant as reserve pool to cater the future needs."*
>
> *[Emphasis supplied]*

16. Adverting to the facts of the instant case, we may first notice that the acquisition for the truck-cum-bus depot was not initiated under

Section 17 of the LA Act. Furthermore, it is undisputed that the acquisition was made for a bona fide public purpose, and all procedural necessities were also duly completed. There is also no question about the genuineness of the submission of the authorities that the land would be used for building a truck parking yard. That being the case. we do not find any ground whatsoever on the basis of which the actions of the State or the Appellant-Authority can be faulted or which would justify the reversion of the acquisition. Merely the acquisition having not resulted in the land being utilised within a particular period of time is no reason for the Court to direct the land to be released to the landowners.

17. In the same breath, we are constrained to observe that the two judgments relied upon by the Division Bench of the High Court, extracted in paragraphs 40 and 41 of the First Impugned Judgment. are based upon an incorrect interpretation of the law. To buttress the directions issued by it, the Division Bench has cited those judgments to hold that it is not open for the State or the acquiring agency to change its mind after a request for re-conveyance of the acquired land under Section 48-B is made. This interpretation of the law, in our considered acquisition opinion, is entirely disjointed from the text of the provision and displays unfounded reasoning. Similarly. jurisprudence is the submission that if the land is not put to use for a specified long

period of time, it is liable to be reverted to the landowners under Section 48-B. Suffice it to say that there is no legal prohibition under the said provision against keeping a portion of the acquired land vacant for future development.

18. At the cost of repetition, we reiterate that Section 48-B of the LA Act does not clothe an expropriated owner with any right to seek re-conveyance of the land. Therefore, even if such a landowner has made an application purportedly under Section 48-B of the LA Act, that does not take away the power of the State to revisit the original public purpose or to divert the land for any other bona-fide public use. In the absence of a positive right, what the Court ought to examine, while undertaking judicial review over the action/inaction under Section 48-B, is whether the exercise of discretion is founded upon mala fide or arbitrary reasons or if the decision-making is tainted by a colourable exercise of power."

25. Reverting to the facts of the present cases in the light of the aforesaid discussion, it is evident that the lands in question were acquired for the Minimata Bango Canal Project pursuant to the acquisition proceedings initiated under the provisions of the Act of 1894. The acquisition proceedings were initiated on the basis of the proposal dated 08.07.2003 submitted by the Executive Engineer, Minimata Bango Canal Project Division, Kharsia, for acquisition of a total area of 7.549 hectares belonging to 61

landowners. The requisite notification under Section 6 of the Act of 1894, was published in the Official Gazette on 17.10.2003 and at the village level on 23.10.2003, and the proceedings ultimately culminated in the award dated 28.02.2004. The lands forming the subject matter of the present writ petitions, situated at Village Brahmanpali, Patwari Halka No. 15, Tehsil Kharsia, District Raigarh, formed part of the aforesaid acquisition. In W.P.(C) No. 573 of 2022, the petitioners seek restoration of land bearing Khasra Nos. 4/5, 5/1, 16/2 and 18/9, admeasuring a total area of 0.356 hectare, whereas in W.P.(C) No. 283 of 2022, the claim concerns land bearing Khasra Nos. 18/2, 18/3-क, 18/3-ख, 18/4-ख, 18/4-ड, 18/4-च and 18/5, admeasuring a total area of 0.598 hectare. The petitioners' principal contention is that, notwithstanding the acquisition, certain portions of the acquired lands have allegedly remained unutilised after construction of the canal and, therefore, ought to be returned to them. The respondents, however, have consistently maintained that the acquisition proceedings were duly completed under the statutory regime then prevailing and that the acquired lands are required for the canal project, including for inspection, maintenance, supervision and other operational and future departmental requirements. It is also material that the petitioners have not sought to invalidate the original acquisition proceedings or the award dated 28.02.2004; their challenge is essentially directed against the order dated 27.09.2021 passed by the Collector,

Raigarh, rejecting their claim for return of the alleged unutilised portions of the acquired land.

26. The question that arises for consideration is whether the petitioners can claim restoration of the acquired lands merely on the ground that certain portions thereof are allegedly not physically occupied by the canal structure, particularly when the acquisition proceedings had culminated in an award under the Act of 1894. In this regard, the legal position is well settled that, upon completion of acquisition and vesting of the land in the State in accordance with the applicable statutory provisions, the erstwhile landowner does not retain an automatic right to reclaim the acquired land merely because the land is subsequently alleged to be unutilised or is not being used for the principal physical structure for which it was acquired. The principle underlying the decisions of the Supreme Court in ***Satendra Prasad Jain*** (supra) ***Indore Development Authority*** (supra) and ***Chennai Metropolitan Development Authority represented by its Member Secretary*** (supra) is that the legal consequences flowing from a completed acquisition and statutory vesting cannot be displaced merely on the basis of subsequent circumstances, unless a right to such relief is established under an applicable provision of law. In the present cases, the acquisition was undertaken for a canal project, the nature of which necessarily involves not only the land occupied by the canal itself but also land required for access, inspection, maintenance, supervision

and allied operational purposes. Consequently, the absence of a permanent physical structure upon every part of the acquired land cannot, by itself, lead to the conclusion that such land has become surplus or that its restoration to the erstwhile owners is legally mandated. The petitioners were, therefore, required to establish not merely that certain portions were not physically occupied by the canal, but also that they possessed an enforceable statutory right to seek return of those portions notwithstanding the completed acquisition under the earlier enactment.

27. The petitioners have placed reliance upon demarcation reports and revenue proceedings to substantiate their contention that certain portions of the acquired khasra numbers have remained unutilised. In W.P.(C) No. 573 of 2022, reliance has been placed upon the demarcation report dated 23.05.2016, according to which portions of Khasra Nos. 16/2 and 18/9 were allegedly not utilised for construction of the canal, apart from the assertion that certain other acquired khasra numbers were not affected by the canal. Similarly, in W.P.(C) No. 283 of 2022, the petitioner relies upon the revenue material to contend that portions of Khasra Nos. 18/3-क and 18/3-ख remained unutilised and that certain other acquired khasra numbers were not affected by the canal. This Court, taking note of the nature of the controversy, passed an order dated 15.06.2026 requiring the concerned authorities to clarify whether the land claimed by the petitioners to be unutilised

was, in fact, unutilised and whether the same would be required for the project in the near future. The Court also directed respondent No. 2, the Collector, Raigarh, to file a detailed affidavit, accompanied by relevant drawings or maps, indicating the necessity for the acquired land. In compliance with the said directions, the Collector, Raigarh, as well as the Executive Engineer concerned, filed their respective affidavits asserting that the canal had already been constructed on the acquired land and that the spaces adjoining its left and right banks were required for inspection, maintenance and supervision. It was further stated that the remaining portions had been earmarked for future departmental requirements, including hutments, storerooms and site offices, and a drawing/map was placed on record to indicate the utilisation and proposed use of the land. The respondents have thus disputed the petitioners' assertion that the land in question is surplus or no longer required for the project. The material brought on record, considered in the context of the nature and requirements of the canal project, does not furnish a sufficient legal basis for directing restoration of the acquired lands to the petitioners. In any event, even assuming, for the sake of argument, that certain portions are not presently occupied by the physical structure of the canal, such circumstance alone would not create an enforceable right in favour of the petitioners to reclaim land which was acquired and vested in accordance with law.

28. The next question concerns the applicability of Section 101 of the Act, 2013. The petitioners seek to rely upon the said provision as the basis for claiming return of the allegedly unutilised land. The respondents, however, have opposed the claim on the ground that the acquisition proceedings in the present cases were initiated and concluded under the Act of 1894, and that the subsequent enactment of the Act, 2013 does not, by itself, confer a right to reopen a completed acquisition undertaken under the earlier statutory regime. The applicability of Section 101 of the Act, 2013 must necessarily be determined with reference to the language and scheme of the Act, 2013 and the circumstances in which the acquisition was completed. In the present cases, the acquisition proceedings culminated in the award dated 28.02.2004, whereas the Act, 2013 came into force subsequently. The petitioners have not demonstrated any statutory provision which, in the facts of the present cases, confers upon them an enforceable right to obtain restoration of the acquired land merely on the allegation of subsequent non-utilisation. Section 101 of the Act, 2013 cannot be invoked as an automatic mechanism for reopening every acquisition completed under the Act of 1894, without first establishing that the provision applies to the acquisition in question and that the statutory conditions governing the return of land stand fulfilled. The mere assertion that the land has remained unutilised, without establishing the applicability of the provision relied upon and the corresponding legal entitlement, is insufficient

to warrant a direction for restoration. Accordingly, the petitioners have failed to establish that Section 101 of the Act, 2013 furnishes a legally sustainable basis for the relief sought in these writ petitions.

29. It is equally important to bear in mind that the petitioners have not challenged the validity of the acquisition proceedings or the award dated 28.02.2004 on any independent ground warranting interference by this Court. Their grievance is confined to the alleged subsequent non-utilisation of certain portions of the acquired land and the rejection of their claim for return of those portions by the Collector, Raigarh, vide order dated 27.09.2021. The acquisition proceedings have remained unchallenged for a considerable period, and the petitioners have not established any defect in the original acquisition which would justify unsettling the legal consequences flowing therefrom in the present proceedings. The fact that the petitioners may regard certain portions as unnecessary for the canal does not, in itself, entitle them to question the continued retention of such land by the acquiring authority. The determination of the operational requirements of an irrigation project involves consideration of factors extending beyond the physical footprint of the canal, including the need for inspection pathways, access for maintenance, supervision, safety and other ancillary requirements. The competent departmental authorities have asserted that the disputed land is required for such purposes and for future departmental use. In the absence of

a demonstrated statutory right to restoration, this Court cannot direct reconveyance merely on the basis of the petitioners' assertion that some portions of the acquired land are not presently being used for the main canal structure. The acceptance of such a claim, without an applicable statutory foundation, would effectively permit a concluded acquisition to be reopened solely on the basis of subsequent allegations concerning the manner or extent of utilisation of the acquired land.

30. For the foregoing reasons, this Court is of the considered opinion that the petitioners in both writ petitions have failed to establish any enforceable statutory right to seek restoration of the lands acquired for the Minimata Bango Canal Project. The acquisition proceedings were initiated and completed under the Act of 1894, and culminated in the award dated 28.02.2004. The petitioners have not challenged the acquisition itself on any legally sustainable ground, nor have they established that Section 101 of the Act, 2013 is applicable to the acquisitions in question in a manner that entitles them to the relief sought. Further, the allegation that certain portions of the acquired land are not physically occupied by the canal does not, by itself, establish that the land is surplus to the requirements of the project or that the petitioners are entitled to its return.

31. The affidavits filed by the Collector, Raigarh, and the Executive Engineer concerned, pursuant to the order dated 15.06.2026,

indicate that the respondents maintain that the land is required for inspection, maintenance, supervision and other departmental requirements associated with the canal project. In these circumstances, no ground has been made out for issuing a writ directing restoration of the acquired land or for interfering with the order dated 27.09.2021 passed by the Collector, Raigarh.

32. Accordingly, **W.P.(C) No. 283 of 2022 and W.P.(C) No. 573 of 2022 are dismissed**. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

Head-Note

Mere non-utilisation of the acquired land does not confer any enforceable right upon the erstwhile landowners to seek its restoration or reconveyance, particularly when the land has vested absolutely in the State pursuant to acquisition under the Land Acquisition Act, 1894, and continues to be required for the original or other allied public purposes.