

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****CWP-5769-2017****Reserved on: 04.10.2023****Date of decision : 09.10.2023**

JALRAM AND ORS.

-PETITIONERS

VERSUS

STATE OF HARYANA AND ORS.

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Anil Rathee, Advocate  
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with  
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with  
Ms. Kushaldeep K. Manchanda, Advocate  
for the respondent(s)-HSVP.

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**SURESHWAR THAKUR, J.**

1. The petitioners claim relief for the quashing of a notification (Annexure P-1), as became issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), thus on 08.03.1989. The said notification became succeeded by a declaration (Annexure P-2), under Section 6 of the Act of 1894, becoming issued thus on 07.03.1990. Thereafter, an award (Annexure P-6), in terms of Section 11 of the Act of 1894, bearing No.17 became made on 22.03.1991.
2. The above launched acquisition proceedings, vis-a-vis the petition lands, were for facilitating a public purpose, namely, for the development and utilization of land for residential and commercial area Sector 9, 9-A and 10 at Gurugram.

3. The above prayer(s) become rested upon the mandate carried in Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'), whereby, on dis-affirmative satiations becoming meted by the acquiring authority qua the statutory parameters embodied therein, thus the landlooser(s) concerned, become entitled to receive a declaration, that the earlier launched acquisition proceedings under the Act of 1894, rather being pronounced to become lapsed.

#### FACTUAL BACKGROUND

4. Before proceeding to determine the legal tenacity of the above claim, as made in the instant writ petition, it is deemed pertinent to allude to the conspicuous factum qua the predecessor(s)-in-interest of the present petitioners instituting CWP-6181-1991, before this Court. The relief(s) claimed in the writ petition (supra) were almost similar to the ones, as become claimed in the instant petition. The writ petition (supra) became decided, along with CWP-3000-1991 and other connected therewith writ petitions, thus on 31.10.1991.

5. The common challenge, as became raised therein, became comprised in the factum, that the landlooser(s) concerned were not granted any opportunity of hearing vis-a-vis their respective objections, as became filed under Section 5-A of the Act of 1894. The other common ground, as became raised in the writ petition (supra), related to the factum, that the respondent(s) concerned had released from acquisition rather the constructed areas of other landowner(s) concerned, whereas, theirs not meteing an alike therewith treatment to the petitioners in the writ petition(s)(supra). Therefore,

it was agitated, that thereby invidious discrimination became practiced vis-a-vis the landlooser(s) concerned by the State of Haryana.

6. It appears on a reading of the verdict, as became drawn on the writ petition (supra), that the releases from acquisition of construction(s) of other landlooser(s) concerned, who became covered by similar notification, thus arose from the latter's construction(s) becoming raised over the acquired lands but prior to the issuance of notification under Section 4 of the Act of 1894, whereas, the lands of the landlooser(s) concerned, rather were vacant in contemporaneity to the issuance of a notification under Section 4 of the Act of 1894. Moreover, it also became observed in the verdict (supra), that if any construction(s) of the landlooser(s) concerned, was in existence in contemporaneity to the issuance of notification under Section 4 of the Act of 1894, thereby the said factum became well taken into account by the respondent(s) concerned, and thus, releases of the said raised construction(s) over the acquired lands, was well made prior to issuance of notification under Section 4 of the Act of 1894. Thereby it was concluded, that there was no invidious discrimination indulged into by the acquiring authority inter se the other landlooser(s) concerned vis-a-vis the petitioners in writ petition(s) (supra).

7. Insofar as the further ground, as became raised in the writ petition (supra) is concerned, and, which relates to no opportunity of hearing becoming granted to the landlooser(s) concerned, upon, their respective objections filed under Section 5-A of the Act of 1894, the said ground became dispelled on the premise, that the declaration under Section 6 of the Act of 1894 became issued after granting an opportunity of hearing to the petitioners. Consequently, with

the above stated observation(s), the writ petition (supra) became dismissed. The relevant portion of the verdict (supra) made by this Court, is extracted hereinafter:-

*“.....During the courses of hearing, the learned counsel for the petitioners has vehemently argued that the petitioners constructed a residential house before the issuance of notification under Section 4 of the Act. This argument in the light of the denial of the State does not carry conviction. It has been specifically stated in the return that the land which was acquired by the State, was completely vacant and the same was agricultural land. In fact, in all the cases, a specific stand has been taken that there was no construction in existence in the disputed land at the time of issuance of notification under Section 4 of the Act and if at all there was some construction which was in existence the State took a note of it and did not acquire the constructed portion and in the instant case as well, it is the stand of the State that a part of the construction i.e. area measuring 206 sq. yards was left out of acquisition.*

*.....There is no force in the argument of the learned counsel for the petitioner that they were not given an opportunity of being heard under section 5-A of the Act. It has been stated by the respondents in the written statement that the notification under Section 6 of the Act was issued after granting an opportunity of hearing to the petitioners under Section 5-A of the Act.”*

8. The aggrieved therefrom raised LPA-578-1992 before a Division Bench of this Court, and, through a decision made thereons, on 16.10.1992, the said LPA became also dismissed.

9. The legal consequence of the concurrently made dismissal orders, upon the writ petition (supra), and, upon the LPA (supra), respectively by a learned Single Judge, and, by a Division Bench of this Court, is that, thereby the present petitioners, who are the successors-in-interest of the petitioners in the apposite writ petition, but are bound by the above verdict(s).

10. Importantly, though in the writ petition (supra), a challenge was thrown to the launching of acquisition proceedings under the Act of 1894, vis-a-vis those parcels of land, which are similar to the instant writ petition. Resultantly, though the binding and conclusive effect of the verdict(s) (supra)

thus did thereby estop the present petitioners from re-agitating an issue, which became earlier clinchingly decided by this Court.

11. Be that as it may, the instant writ petition has been instituted in the year 2017, and, with relief that the provisions of Section 24(2) of the Act of 2013 be made applicable to the acquired lands concerned. Therefore, when the said statutory enactment was not in force at the time of decisions (supra) being made, whereas, it came into force, rather subsequent to the making of the concurrent decisions (supra) by this Court, respectively upon the writ petition (supra), and, upon the LPA (supra). Therefore, when thus a cause of action, which was not in existence earlier, rather came to existence subsequent to the rendition of decisions (supra), thereby the instant writ petition may not attract qua it the estopping principle of *constructive res judicata*.

12. The present petitioners would become entitled to receive the beneficent grace of the statutory provisions enclosed in Section 24(2) of the Act of 2013, but only if the respondent- State abysmally failed to adduce cogent material, thus displaying that: (I) the Rapat possession of the acquired lands did not become assumed before coming into force of the Act of 2013; and/or, (ii) the determined compensation amount did not become tendered, in terms of Section 31 of the Act of 1894, before the authority concerned, for thereby the same becoming claimed to be released, or, disbursed vis-a-vis the landlooser(s) concerned.

13. A reading of the reply on affidavit, as becomes furnished to the writ petition by the respondent(s) concerned, does vividly disclose, that vide Rapat No.650 of 22.03.1991, thus Rapat possession of the acquired lands became assumed by the respondent(s) concerned. Moreover, it has also been

disclosed therein, that the determined compensation amount also became deposited, in terms of Section 31 of the Act of 1894, before the authority concerned, for the same becoming available to become disbursed to the landlooser(s) concerned. Importantly, it has also been disclosed in the reply (supra), that the landlooser(s) concerned, had filed a reference petition before the learned Reference Court concerned, thus seeking enhancement of the compensation amount from the one, as became pronounced earlier by the learned Collector concerned.

14. In consequence, in terms of the verdict rendered by the Hon'ble Apex Court in case titled *"Indore Development Authority v. Manoharlal", 2020 AIR (Supreme Court) 1496*, the landlooser(s) concerned rather cannot claim a right, that the earlier launched acquisition proceedings, under the Act of 1894, be thus declared to become lapsed.

15. Cumulatively hence the relief(s) (supra) cannot be assigned to the present petitioners. Therefore, this Court finds no merit in the writ petition and is constrained to dismiss it. Since the instant writ petition is a frivolously raised motion, it is dismissed with costs of Rs.50,000/- to be forthwith deposited in the Punjab and Haryana High Court Employees' Association, Chandigarh.

16. All pending application(s), if any, stand disposed of accordingly.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(KULDEEP TIWARI)**  
**JUDGE**

**09.10.2023**  
**devinder**

*Whether speaking/reasoned ? Yes/No*  
*Whether reportable ? Yes/No*