

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(I) CWP No. 32358 of 2019
Reserved on: 09.10.2023
Date of decision: 19.10.2023

JAI MATA MARBLE & GRANITES AND ORS. -PETITIONERS

V/S

STATE OF PUNJAB AND ORS. -RESPONDENTS

(II) CWP-9961-2023

KARAMJIT SINGH AND ORS. -PETITIONERS

V/S

STATE OF PUNJAB AND ORS. -RESPONDENTS

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

Present : Mr. Naresh Kaushal, Advocate
for the petitioners (in both writ petitions).

Mr. Maninder Singh, DAG, Punjab.

Mr. R.S. Khosla, Sr. Advocate with
Ms. Shreya Singh, Advocate
for respondent(s)-GMADA.

Mr. Himanshu Arora, Advocate
for respondents No.2 and 4 (in CWP-9961-2023).

SURESHWAR THAKUR, J.

1. Since both these writ petitions arise from common acquisition proceedings, besides when common question of law are involved therein, therefore, they are required to be decided through a common verdict.

2. The common reliefs, as become claimed in the instant writ petitions, relate to the quashing of Award bearing No.555 dated 10.06.2015, besides, relate to a mandamus being made upon the respondent(s) concerned

to not dispossess the petitioners from the acquired lands.

FACTUAL BACKGROUND

3. Prior to the institution of the instant writ petitions, the landowners concerned had filed eight writ petitions before this Court, whereby, they challenged the issuance of notifications, as became respectively made under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'). Though during the pendency of the writ petitions, the dispossession of the said landowners was stayed by orders made by this Court, thus resulting in the award(s) not becoming pronounced by the Land Acquisition Collector concerned. However, out of the eight writ petitions, five writ petitions respectively bearing CWP-8222-2006, CWP-6401-2006, CWP-7159-2006, CWP-7263-2006 and CWP-7153-2006, became withdrawn. Resultantly, the withdrawal of the said writ petitions, did beget the sequel, that thereby the landowners concerned acquiesced to the makings of acquisitions of their lands, thus in the year 2011. Moreover, through an order made on 04.07.2016, upon CWP-12151-2016, this Court had passed directions for assessing the cash compensation vis-a-vis the acquired lands of the petitioners(s)/landlooser(s) concerned, if they furnish affidavit, stating therein that they do not want to accept the land pooling. It was in compliance of the above directions, that a Committee was constituted to determine the cash compensation under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'). The petitioners along with the landlooser(s) concerned were called for hearing on 20.03.2018 by the Committee for giving their options for land pooling, or, cash compensation as

determinable under the provisions of the Act of 2013. Though the landlooser(s) concerned appeared before the Committee, yet they did not evidently give their consent for any proposal. Subsequently, through an affidavit of 22.03.2019, as became furnished by the Estate Officer, GMADA, the proceedings of the Committee were placed before the Court, whereby, in the hereinafter extracted tabulated, thus cash compensation was offered to the landowners concerned. Therefore, the landlooser(s) concerned became entitled to receive compensation either by way of land pooling, which they appear to forego in face of theirs not, as stated (supra), assigning their consent for any proposal, but cash compensation yet became assessed in the hereinafter tabulated manner:-

Sr. No.	Village Name	Basic Market Rate Determined	100% Solatium	12% A.P.	Total Compensation Per Acre
1.	Lakhnaur	1,00,00,000	1,00,00,000	12,00,000	2,12,00,000
2.	Sohana	1,10,00,000	1,10,00,000	13,20,000	2,33,20,000
3.	Landran	1,23,78,533	1,23,78,533	14,85,424	2,62,42,490

4. Significantly, the petitioners are not landowners, but claim themselves to be tenants over the acquired lands. Therefore, they claim that since they are running some industries on the acquired lands, thereby they fall within the definition of “affected family”, as occurs in Section 3(c)(i)&(ii) of the Act of 2013, provisions whereof, becomes extracted hereinafter:-

“3.Definition.—In this Act, unless the context otherwise requires,-
XX XX XX
(c) “affected family” includes—
(i) a family whose land or other immovable property has been acquired;
(ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form

of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land;”

5. Though a reading of clause (ii) of Section 3(c) of the Act of 2013 makes it evident, that tenants including any form of tenancy, who were working in the affected area, prior to the acquisition of land, and, whose primary source of livelihood, stands affected, by the acquisition of land, thereby they prima facie become entitled to receive the benefits of the provisions, as carried in sub-section (3) of Section 105 of the Act of 2013, provisions whereof become extracted hereinafter, besides they become entitled to the benefits of the Second Schedule existing therein, thus relating to the provisionings qua housing units in place of displacement.

“105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.—

XX XX XX

(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.”

6. Without entering into the realm of the dispute (supra), besides without making any effective adjudication thereon, the conspicuous fact, which was required to be proven, for thereby the petitioners becoming prima facie construable to become entitled to the benefits (supra), rather appertained

to theirs proving/establishing that they were tenants over the acquired lands, as thereby alone they would become affected within the meaning of “affected family”. However, in the above regard, excepting certain photocopies of receipts, no evidence has been adduced to satisfy the judicial conscience of this Court, that the petitioner, purported tenants over the acquired lands, are as such tenants thereon, and thereby, they are prima facie entitled to the benefits of the statutory provision (supra), as engrafted in the Act of 2013, and, that prima facie they are also entitled to the benefit of the Second Schedule occurring in the Act of 2013.

7. Importantly also, when for best proof to emerge in respect of the validity of the said photocopies of purported rent receipts, thus required that the landowners became impleaded in the array of co-respondents, for thereby theirs admitting the said photocopies of rent receipts, thus to be genuine, whereas, the landowners concerned remaining unimpleaded in the array of co-respondents, thereby the photocopies of rent receipts, thus do not manifest, that they were attorning to the landowners concerned.

8. Since thereby disputed question(s) of fact, do emerge with respect to the present petitioners, thus being evidently tenants over the acquired lands, thereby until and unless, the said question of fact is determined, in a declaratory suit, becoming instituted by the petitioners before the learned Civil Court concerned, thus thereupto this Court, refrains from declaring them to be tenants over the acquired lands, besides, refrains from making any adjudication upon theirs becoming prima facie entitled to the benefits of the mandate (supra), as engrafted in the Act of 2013.

9. In consequence, this Court finds no merit in the instant writ

petitions and is constrained to dismiss them. Accordingly, the writ petitions are dismissed, but, leaving liberty to the petitioners to access the learned civil court concerned, for seeking a declaratory decree, that they were tenants over the acquired lands under the landowners concerned.

10. The instant writ petitions bearing No.32358 of 2019, and, 9961 of 2023 are dismissed with costs of Rs.50,000/- each, to be forthwith deposited by the petitioners in each of the writ petition, respectively in the Punjab and Haryana High Court Employees' Association, and, with the Treasurer of the Punjab and Haryana High Court Bar Association.

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

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

19.10.2023
devinder

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