

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 3943 of 2014 (O&M)

Reserved on : 16.4.2024

Date of Decision: 29.4.2024

Harbir Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Argued by: Mr. Yash Dev Kaushik, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification dated 23.2.1973 (Annexure P-6), and, also seeks the quashing of notification dated 3.5.1973 (Annexure P-7). The said notifications were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award dated 7.9.1993 (Annexure P-12), has also been asked to be quashed, and, set aside.

2. The above espoused writ claims become founded upon the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013'), whereunders the petitioners become empowered to claim the making of a lapsing declaration.

3. Earlier the instant petition along with CWP-11445-2008 and other connected CWPs were disposed of by this Court on 27.10.2016. The

said decision became challenged before the Hon'ble Apex Court by filings

of SLPs. The Hon'ble Apex Court through a decision made on 13.11.2021, on the said SLPs, set aside the impugned order, and, remitted the instant writ petition to this Court for deciding it afresh. Thereafter, when the instant petition came up for hearing on 27.9.2022, it was adjourned sine die to await the decision of SLP (C) No. 003881-2020. The operative part of the decision on the said SLP is extracted hereinafter.

“In such view of the matter, the appeal is allowed.

Accordingly, the impugned order stands set aside and the matter is remitted to the High Court to be decided on the issues other than the one covering the field in Indore Development Authority (supra)”

Grounds raised in the instant petition

4. The grounds, as raised in the instant petition by the petitioners that they are the owner in possession of land measuring 89K-17M kitte 13, comprised in khewat No. 594/597 min, khatoni No. 694, situated in the revenue estate of village Sihi, Tehsil Ballbgarh, District Faridabad. It is further averred in the instant petition, that the impugned notification became challenged by the petitioners by filing CWP No. 1666 of 1973 and other connected petitions, which were allowed by this Court through an order made thereons, on 6.5.1974. Aggrieved therefrom, the State of Haryana preferred LPA Nos. 342 to 345 and 386 to 389 of 1974 before this Court, which were allowed by this Court through a decision made thereons on 15.1.1979. Being aggrieved thereagainst, the petitioners preferred SLP No. 1980-82 of 1979 before the Hon'ble Apex Court, wherein the acquisition proceedings were stayed by the Hon'ble Apex Court, through an order made thereons on 30.7.1979. Thereafter, the SLP (supra) was dismissed by the Hon'ble Apex Court through an order passed thereons on 10.9.1992.

Subsequently, the impugned award was passed by the respondent concerned.

5. It has also been averred in the instant petition, in the second round of litigation, the petitioners had filed CWP-13998-1993 before this Court, on the ground that the proceedings initiated by the State Government being infructuous, as the impugned award had been announced after two years, as provided under Section 11 of the Land Acquisition Act, 1894. During the pendency of the petition (supra), the petitioners applied for grant of licence to develop a group housing colony by depositing the requisite fee. On 1.9.2009, the licence application submitted by the petitioners was processed by the Director, Urban Estates Department, Haryana, and, it was concluded that the petitioners were the owners in possession of the petition land. However, vide order dated 26.9.2010, the said application was dismissed on the ground that the title of the land was not clear. Thereafter, the petition (supra) filed by the petitioners, was also dismissed by this Court vide order dated 4.4.2011. The review petition filed by the petitioners against the said order was also dismissed on 16.3.2012. The petitioners challenged the said orders by filing SLP(C) 24804 of 2012 before the Hon'ble Apex Court, which was also dismissed on the ground of delay of 365 days.

6. It is further averred in the instant petition, that in the third round of litigation, the petitioners filed CWP-9705-2013 before this Court for issuance of a direction upon the respondents concerned, to release the petition land on the ground that the lands of similarly situated land losers became released. However, the said petition also dismissed by this Court through an order made thereons on 6.5.2013. The said order also became assailed by the petitioners by filing SLP(C) No. 33872 of 2013 before the Hon'ble Apex Court, which was also dismissed on 19.11.2013.

Reply on behalf of the respondent concerned

7. It has been stated in the reply on affidavit, furnished to the instant petition that since the acquisition proceedings were under litigation before this Court, and, before the Hon'ble Apex Court, therefore, no award could be made before the final decision of the Hon'ble Apex Court on 10.9.1992. It is further stated in the reply on affidavit, that the rapat possession of the acquired lands became assumed through rapat bearing No. 8 dated 57.9.1993, and, the petitioners did not intentionally come forward to receive the compensation amount. However, the said determined compensation amount being sent to the Court concerned, for its becoming disbursed to the land losers concerned.

Reasons for rejecting the instant petition

8. For the reasons to be assigned hereinafter, the above claimed reliefs are liable to be declined.

9. Conspicuously, prior to the filing of the instant petition before this Court, the present petitioners had instituted CWP No. 1666 of 1973 before this Court, and, on the said writ petition, an affirmative order became passed. The aggrieved State of Haryana preferred LPA Nos. 342 to 345 and 386 to 389 of 1974 before this Court, and, an order made thereons on 15.1.1979, the said LPAs were allowed. The above brought grievance to the present petitioners, leading them to institute SLP No. 1980-82 of 1979 before the Hon'ble Apex Court. However, the said SLP became dismissed, through an order made thereons, on 30.7.1979, by the Hon'ble Apex Court. Consequently, the award was rendered.

10. The petitioners did not yet stop, and, instituted CWP-13998-1993 before this Court wherebys they claimed, that they are entitled for a

the said petition was dismissed by this Court through an order made thereons on 4.4.2011. The review petition, as became raised thereagainst by the aggrieved petitioners was also dismissed through an order dated 16.3.2012. Subsequently, an unsuccessful challenge thereto was raised by the present petitioners before the Hon'ble Apex Court. Thereafter, again the petitioners approached this Court by filing CWP-9705-2013. However, the said petition was also dismissed by this Court through an order made thereons on 6.5.2013. Being aggrieved therefrom the petitioners preferred SLP(C) No. 33872 of 2013, before the Hon'ble Apex Court, which was also became dismissed on 19.11.2013.

11. The dismissal orders, as made on the earlier writ petition, by this Court, also became affirmed by the Hon'ble Apex Court. Resultantly therebys, the instant writ petition is barred by the principle of constructive *res judicata*, and, as such is not maintainable before this Court.

12. Be that as it may, since it is also stated in reply, on affidavit, furnished to the instant petition, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose than the individualistic interest is rather to be furthered, as such, the claim for release of the said lands from acquisitions but cannot be said to be a well laid claim by the land losers concerned.

Final Order of this Court.

13. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed with costs of Rs. 25,000/- upon each of the petitioners to be forthwith deposited by them

with the ‘*Punjab and Haryana High Court Bar Association, Chandigarh*’.

The impugned notifications, and, award are maintained and affirmed.

14. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 29, 2024
Gurpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No