

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP No. 20276 of 2008 (O&M)

Date of Decision: 17th November, 2020

Dharam Singh and others

....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN

Present: Mr. Sushil Kumar Sharma, Advocate
for Mr. M.L. Sharma, Advocate for the Petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

CM No. 15932 of 2015

1. This is an application seeking leave to place on record additional facts and for treating the main writ petition as praying for a declaration of deemed lapsing in terms of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

2. In view of the decision of the Constitution Bench of the Supreme Court in ***Indore Development Authority v. Manoharlal AIR 2020 SC 1496***, none of the grounds challenging the acquisition proceedings, which form the subject matter of the main petition, under Section 24 (2) of the 2013 Act survive. Accordingly, the application is dismissed.

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3. The prayer in the present petition *inter alia* is for quashing the land acquisition proceedings which commenced with a notification dated 8th June, 2007 issued under Section 4 of the Land Acquisition Act, 1894 ('LAA'), a declaration dated 27th February, 2008 under Section 6 of the LAA and culminated in an Award dated 25th September, 2008 in relation of acquisition of the land situated in village Bawal, Tehsil Bawal, District

Rewari. A challenge has also been laid to the notification dated 12th November, 2008 issued under Section 48 of the LAA, releasing part of the land that stood acquired under the same notifications.

4. It is stated that the Petitioners are owners of land in Mustil No. 50, Killa Nos. 26/2 and 28/1 min, situated within the municipal limits of village Bawal, Tehsil Bawal, District Rewari, admeasuring 23 *kanals* and 13 *marlas*. It is stated that the Petitioners constructed a house on the land in question way back in 1997. It is stated in para 13 of the petition that the Petitioners filed objections under Section 5A LAA after the issuance of the notification under Section 4 LAA, requesting that the land in question be released from acquisition. It is stated that the Petitioners' case for release of the land in question was recommended by a report of the Land Acquisition Collector, but was not accounted for by the Respondents when the declaration under Section 6 LAA was issued. It is stated that the land adjacent to the Petitioners' land was released, but the land in question was included for acquisition.

5. It is further stated in para 23 of the petition that 1189 *kanals* and 10 *marlas* of land was de-notified by a notification issued under Section 48 LAA after the announcement of the Award. It is stated that the authorities had no power to de-notify the aforesaid land after taking over possession.

6. Notice of motion was issued by the Court on 10th December, 2008 and on 17th December 2008, status quo as regards possession was directed to be maintained by this Court. The amendment to the writ petition to challenge the notification dated 12th November, 2008 under Section 48 LAA was allowed by an order dated 6th March, 2009 and the said notification was also stayed by the same order. On 20th January 2016, an order was passed adjourning the petition *sine die* with a direction to list it for hearing after the Supreme Court decided Civil Appeal No. 4835 of 2015 (***State of Haryana v. Maharana Partap Charitable Trust***). Subsequently, on account of an order passed by the Supreme Court in SLP (Civil) CC No. 7788 of 2017 on 17th April, 2017, this Court on 13th October, 2017, while allowing the application filed by the Petitioners directed that the petition be listed for hearing on 30th October, 2017.

7. Thereafter, the case was adjourned from time to time, awaiting the decision of the Supreme Court which has now been delivered in ***Indore Development Authority v. Manoharlal (supra)***.

8. A written statement was filed way back on 27th June, 2009 to the amended writ petition by the Under Secretary, Financial Commissioner and Principal Secretary to Government of Haryana, Industries and Commerce Department. It is stated therein that the Petitioners did not file objections under Section 5A LAA to the land acquisition proceedings and therefore, the present petition is not maintainable in view of the decision in ***Delhi Administration v. Gurdeep Singh Uban AIR 1999 SC 3822***.

9. It is further stated that although the Award was made on 25th September, 2008, possession was not immediately taken over as a number of representations from the residents of village Bawal for exempting their land from acquisition had been received by the State Government. It is stated in para 9 of the 'preliminary submissions/objections' of the written statement, as under:

"9...a meeting was held on 13th October, 2008 under the Chairmanship of Commissioner and Secretary to Govt. Haryana, Industries Department where Director of Industries, Haryana, Managing Director, HSIIDC, General Manager (Industrial Area), HSIIDC and Chief Town Planner, HSIIDC were present and a view was formed to exclude the entire residential area/lands between NH-8 and railway lines as it was meant for residential use and within the municipal limits, M/s Versha Spinning Mills as it was an old industrial unit and submitted its plan for revival of its operations with foreign collaboration and the constructed structures along the Bawal road from NH-8 intersection. The recommendations were approved by the competent authority."

10. It is stated in para 10 of the petition that in view of the recommendations made after a site visit, it had been proposed by the HSIIDC to withdraw from acquisition land measuring 5 *kanals* and 10 *marlas* in village Bawal. Accordingly, a notification was issued under Section 48 (1) of the LAA on 12th November, 2008 withdrawing from acquisition the aforesaid land.

11. No replication has been filed to the written statement filed way back on 22nd June, 2009. In other words, the averment in the written statement of the

Respondents that no objections were filed by the present Petitioners under Section 5-A LAA has not been rebutted. This therefore remains a disputed issue.

12. As far as the Petitioners' challenge to the notification dated 12th November, 2008 under Section 48 LAA is concerned, the Court is not convinced that any case for interfering with the same has been made out. It is clear from the written statement that the decision to issue the aforesaid notification was taken after duly considering several objections under Section 5A LAA. It has been further pointed out that the decision to release the land was based on the recommendations made by a team of senior officers of the HSIIDC, which was prepared after carrying out sites visits. The State Government concurred with these recommendations. It has also been unequivocally stated that possession of the above land was not taken. In these circumstances, the Court unable to see how the aforesaid notification under Section 48 LAA is contrary to the provisions of the LAA or arbitrary in any other manner.

13. No other ground has been urged or made out for quashing the land acquisition proceedings. There is no merit in the present petition and it is accordingly dismissed. The status quo order hereby stands vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

17th November, 2020
jk

Whether speaking/reasoned Yes/No

Whether reportable Yes/No