

## IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10314-2016

Date of Decision: 10<sup>th</sup> November, 2020

Balbir Singh and another

....Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: JUSTICE S. MURALIDHAR**  
**JUSTICE AVNEESH JHINGAN**

Present: Mr.B.K.Bagri, Advocate for the Petitioners.

Mr.Ankur Mittal, Additional Advocate General, Haryana.

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**Dr. S. Muralidhar, J.**

1. This writ petition seeks the quashing of the land acquisition proceedings that commenced with issuance of notification dated 27<sup>th</sup> January, 2003 under Section 4 of the Land Acquisition Act, 1894 ('LAA'); a declaration dated 23<sup>rd</sup> January, 2004 under Section 6 of the LAA, culminating in an Award for the acquisition of land, including the land of the Petitioners, situated at village Piwara, Tehsil and District Rewari. The Petitioners are seeking a declaration of deemed lapsing of land acquisition proceedings by invoking Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

2. The case of the Petitioners is that physical possession of the land in question is still with the Petitioners and further that no compensation has been paid or even deposited with the reference Court.

3. While directing notice issued in the present petition on 23<sup>rd</sup> May, 2016, an interim order was passed. The petition was thereafter adjourned awaiting the decision of the Constitution Bench of the Supreme Court which has since been delivered in *Indore Development Authority v. Manoharlal* AIR 2020

4. This Court has heard the submissions of Mr.B.K.Bagri, learned counsel appearing for the Petitioners and Mr. Ankur Mittal, Additional Advocate General, Haryana, appearing for the Respondents.

5. As regards the issue of possession the case of the Respondents is that the possession was taken on the date of the Award itself under a *rapat roznamcha*. If, despite that, the Petitioners claim to be still in physical possession the land, they are obviously in unauthorised occupation thereof. In para 245 of the decision in **Manoharlal's** case (*supra*), the legal position was explained as under:

“245. The question which arises whether there is any difference between taking possession under the Act of 1894 and the expression “physical possession” used in Section 24(2). As a matter of fact, what was contemplated under the Act of 1894, by taking the possession meant only physical possession of the land. Taking over the possession under the Act of 2013 always amounted to taking over physical possession of the land. When the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the physical possession of the land. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts residing in the outhouse, etc., is deemed to be the trespasser on land which in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case.”

6. Consequently, the contention of the Petitioners that since they continue to remain in physical possession, the condition for invoking Section 24(2) of the 2013 Act stands fulfilled, is hereby rejected.

7. Even as regards to payment of compensation the relevant portion of the decision in **Manoharlal** (*supra*), reads as under:

“363 (4). The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is

provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

8. If for any reason the Petitioners have not yet opted to receive the compensation, they can approach the Land Acquisition Collector concerned for that purpose and such request shall be examined by the LAC in that event in accordance with law and an appropriate order passed.

9. None of the issues raised in this petition survive for consideration. The prayer for a declaration of deemed lapsing of the land acquisition proceedings is declined following the judgment in *Manoharlal (supra)*.

10. The petition is accordingly dismissed. The interim order stands vacated.

**(S. MURALIDHAR)**  
**JUDGE**

**(AVNEESH JHINGAN)**  
**JUDGE**

**10<sup>th</sup> November, 2020**

*Davinder Kumar*

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