

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

205

CWP No. 17534 of 2014**Date of Decision: 10th August, 2020**

Maharaja Agarsen Co-op House Building Society Ltd.

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. V.K. Gupta, Advocate
for the Petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Lokesh Sinhal, Advocate for HSIIDC.

Dr. S. Muralidhar, J.

1. The challenge in the present petition is to the land acquisition proceedings which culminated in the Award dated 15th February 2004 following the notification dated 16th August 2001 under Section 4 of the Land Acquisition Act 1894 ('LAA') and the notification dated 14th August 2002 under Section 6 of the LAA for the acquisition of land admeasuring 40 Bigha 8 Biswa in the revenue estate of village Gobindpura, Hadbast No.407, Tehsil Jagadhari, District Yamuna Nagar, Haryana.

2. The earlier challenge to the land acquisition proceedings by way of CWP No. 6173 of 2004 stood negatived by the dismissal of the said writ petition by this Court by judgment dated 8th August 2008. The special leave petition (SLP) filed against the said judgment was dismissed by the Supreme Court on 1.2.2020.

4. In the present petition a status quo order was passed by this Court on 14th January 2016. Subsequently on 28th November, 2019 this Court adjourned the

petition sine die awaiting the judgment of the Constitution Bench of the Supreme Court.

5. The Constitution Bench of the Supreme Court on 6th March 2020 delivered a unanimous judgment in a batch of Appeals/Special Leave Petitions (SLPs) of which the lead case was SLP (C) Nos. 9036-38 of 2016 (***Indore Development Authority v. Manoharlal and others etc.***). The answers to the specific questions that arose for consideration have been set out in para 363 of the judgment of the Supreme Court. On 6th March 2020.

6. In para 363 (9) of the judgment in ***Manoharlal*** (*supra*), the Constitution Bench has held that “Section 24 (2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition.....It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of the mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of the court to invalidate acquisition.”

7. In the present case, since the earlier dismissal by this Court of the writ petition challenging these very acquisition proceedings has attained finality, on this short ground this Court cannot entertain a fresh challenge to the proceedings on any ground whatsoever.

8. As regards the question of possession, the Supreme Court has clarified in para 245 of the said judgment in ***Manoharlal*** that "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 the trespasser always inures for the benefit of the real owner that is the State Government in the case."

9. The learned Additional Advocate general for the Respondents has placed on record the copy of the *Rapat Roznamcha* dated 26th February 2004 regarding the Government having taken possession of the land in question.

10. As regards compensation, the Supreme Court in *Manoharlal* has apart from clarifying that there is no deemed lapsing of land acquisition proceedings even when one of the two negative conditions set out in Section 24 (3) of the 2013 Act is satisfied, clarified that non-deposit of compensation in Court does not result in lapse of the land acquisition proceedings. As far as present case is concerned it has been pointed that by the Respondents that the Petitioners have chosen not to lift the amount of compensation. Further the LAC has already disbursed 95% of the total Award amount to the land owners. Thus even on the ground of compensation, the petitioners have no case.

11. Consequently this Court finds no merit in this petition and it is dismissed as such. The status quo order stands vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

10th August, 2020
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Whether speaking/reasoned:	Yes
Whether Reportable:	Yes