

121 RA-CW-213-2020 in/and CWP-11712-2020

BABU LAL AND ORS V/S STATE OF HARYANA AND OTHERS

Present: Mr.R.S. Rai, Senior Advocate with
Mr.Gautam Dutt, Advocatefor the Applicants.

Mr.Ankur Mittal, Additional Advocate General, Haryana.

RA-CW-213-2020

1. This is a review application seeking recall of the order dated 24th August, 2020 dismissing the Review Applicant's writ petition CWP No. 11712 of 2020 on the ground that there is an error apparent on the face of the order.

2. The prayers in the writ petition, which have been set out in paras 1 and 2 of the order dated 24th August, 2020, are to the effect that the order dated 29thJanuary, 2020 passed by Respondent No.3 rejecting the representation of the Petitioners for release of their land, acquired pursuant to the land acquisition proceedings commencing with a notification dated 1st July, 2011 issued under Section 4 of the Land Acquisition Act, 1894 ('LAA'), a notification dated 26th June, 2012 issued under Section 6 of the LAA and culminating with an Award dated 8th November, 2014 passed by the Land Acquisition Collector ('LAC'), should be quashed.

3. The above order dated 29th January, 2020 of Respondent No. 3 was passed pursuant to the directions issued by this Court in an order dated 15th July, 2016 in CWP No.8124 of 2015 (*Ajay Kumar and others v. State of Haryana and others*).

4. Mr. R.S. Rai, learned Senior Counsel appearing for the Review Applicants/Petitioners, submits that the prayers in the writ petition do not pertain to seeking 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'). According to him, since the Award itself came to be passed only on 8th November, 2014, there

would arise no occasion for the Petitioners to resort to Section 24 (2) of the

2013 Act, which requires the award under Section 11 to be passed 5 years prior to the commencement of the 2013 Act. He submits that the prayer of the Petitioners is for release of their land in terms of the policy dated 24th January, 2011 of the Government of Haryana.

5. Considering that the Award was passed on 8th November, 2014, the question of the Petitioners seeking a declaration of lapsing of the land acquisition proceedings in terms of Section 24(2) of the 2013 Act, did not arise. This fact was overlooked by the Court when it passed the order dated 24th August, 2020, dismissing the writ petition.

6. Clearly, therefore, there is an error apparent on the face of the order, which requires to be rectified.

7. In that view of the matter, the review application (RA-CW-213-2020) is allowed. The order dated 24th August, 2020 is hereby recalled and CWP No.11712 of 2020 is restored to file.

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8. Mr.R.S. Rai, learned Senior Counsel for the Petitioners submits that in the report of the Joint Site Inspection Committee ('JSIC'), on the basis of which the impugned order dated 29th January, 2020 was passed, it has been uniformly stated in respect of all the Petitioners that the constructions on the land, the release of which they are seeking, were subsequent to the notification issued under Section 4 of LAA and that therefore, in terms of the extant policy, those lands cannot be released. In support of his plea that the constructions on the land in question already existed at the time that the notification under Section 4 of the LAA came to be issued, he placed reliance on the *Khasra Girdawaris* for the years 2011-14, copies of which have been placed at Annexure P-9 of the petition, *qua* each of the lands, which the Petitioners pray for the release of. As regards the observation in the report of the JSIC that the Petitioners did not claim release of the lands in question in the objection filed by them under Section 5 LAA, Mr.Rai placed reliance on the decision of the Division Bench of this Court in ***Raj Singh v.***

of the objections by the Petitioners under Section 5-A of the LAA *qua* the lands of which release is being sought cannot be a valid ground for denying benefit of the government policy.

9. From a perusal of the report of the JSIC, it appears to the Court that there is no specific reference in the report of the Committee having perused the aforesaid *Khasra Girdawaris* before finalizing its report.

10. Notice of motion.

11. Mr. Ankur Mittal, Additional Advocate General, Haryana, accepts notice. He states that he will verify the aforesaid *Khasra Girdawaris* annexed with the petition and seek instructions whether the JSIC took them into consideration in preparing its report. The Respondents shall file a para-wise reply to the writ petition, specifically addressing the aforesaid issue within four weeks. Rejoinder thereto, if any, be filed before the next date of hearing.

12. Status quo as of today *qua* the lands in question be maintained.

13. List on 10th February, 2021.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

14th October, 2020
Davinder Kumar