

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21401-2016

Date of Decision: 17th November, 2020

Muni Lal and others

....Petitioners

Versus

State of Haryana and others

....Respondents

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

Present: Mr.SanjayVij, Advocate, for the Petitioners.

Mr.Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. The Petitioners have challenged in this writ petition a notification dated 20th April, 1990 under Section 4 of the Land Acquisition Act, 1894 (in short 'LAA'); a declaration dated 18th April, 1991 under Section 6 of the LAA and an Award dated 20th March, 1993 in respect of the proceedings for acquisition of land in village Kanhai, Tehsil and District Gurgaon, for development of the land as residential and commercial area. The Petitioners seek a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter, '2013 Act').

2. The Petitioners have also challenged a speaking order dated 28th July, 2016 passed by Respondent No.4 pursuant to the directions issued by this Court in its order dated 1st April, 2015 in CWP No.6086 of 2015 whereby it was noted that the Petitioners were claiming to be in physical possession of the land and were "ready to refund the compensation amount along with interest received by their ancestors".

3. This is the third round of litigation. It appears that the above order dated 1st April 2015 of this Court was in second round of litigation. In the first round, CWP No.4499 of 1992 was filed by Krishan Chand and others challenging the very same land acquisition proceedings. That writ petition was dismissed by this Court by judgment dated 15th December, 1992. The judgment attained finality with no further challenge being raised to the said judgment. It is only on account of 2013 Act that the Petitioners for the second time filed CWP No.6086 of 2015 in which above order was passed.

4. The representation made by the Petitioners, pursuant to the above order stood rejected by the impugned order dated 28th July, 2016 of the Chairperson-cum-Zonal Administrator, HUDA, accepting the recommendation of the Zonal Committee that the provisions of Section 24(2) of 2013 Act were not attracted. It was noted that the physical possession of the land in question had been handed over to HUDA. It appeared that the Petitioners had encroached upon the land in question thereafter only to somehow to take benefit of the 2013 Act.

5. Notice of motion was issued in the present petition on 17th October, 2016 and status quo order was asked to maintain regarding the residential house except 900 square yard land required for widening of sector road. The petition was then adjourned awaiting the judgment of the Constitution Bench of the Supreme Court which has since been delivered in ***Indore Development Authority v. Manoharlal AIR 2020 SC 1496.***

6. In view of the clear admission by the Petitioners that they have already received compensation, and are prepared to return it, the condition essential for declaration of deemed lapsing of the land acquisition proceedings under Section 24(2) of 2013 Act does not stand fulfilled.

7. There is another difficulty as far as Petitioners is concerned. As already noticed that this is third round of litigation seeking to challenge the validity of the same land acquisition proceedings. The petition deserves to be dismissed even on this ground in view of the clear enunciation of the settled legal position in this regard in the following passage in ***Manoharlal (supra):***

“9. 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. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

8. It may be noted that on 2nd September, 2017 a written statement was filed on behalf of Respondents No.1 & 2 confirming that possession of land was delivered to HUDA vide *rapat rojnamcha* No.425 dated 23rd March, 1993 and mutation was also sanctioned in favour of HUDA vide mutation No.1218 dated 4th August, 2004. As regards compensation, it is stated in para 5 as under:

“5. That it is submitted that the as regard the compensation status of total acquired land measuring 948.95 acres for the above said scheme, the compensation amount of Rs.37,24,19,896.75/- was deposited in favour of LAC, Gurugram, out of which Rs.35,51,80,314.35/- (approximately 95%) paid to the landowners whose land was acquired. Rest of the amount Rs.1,72,39,582.40/- is lying in the account of the LAC Gurugram. It is submitted that the compensation amount Rs.4,11,199.30/- of awarded land along with structure has received by the petitioners on 14.9.1994 & 11.6.2002. The Petitioners has received the entire compensation as per the award dated 23.3.1993.

The status of the awarded land of village Kanhai is that the total awarded compensation amount was Rs.12,27,47,937.60/- (Rs.11,81,70,096/- of the land and Rs.45,77,841.60/- of the structure) out of which Rs.11,20,371.55/- (Rs.10,30,90,210/- of the land and Rs.14,96,162.55/- of structure paid to landowners and Rs.74,63,999/- has been deposited in the Court). Rest of the amount Rs.1,06,97,566.05/- (Rs.76,15,877/- of the land and Rs.30,81,679.05/- of the structure) is laying in the account of the LAC of the village Kanhai.”

9. A further affidavit dated 15th January, 2018 has been filed by the Land Acquisition Collector, Gurugram in which the updated information regarding payment of compensation is set out as under:

“4. It is submitted that as regard the compensation status of total acquired land for the above said scheme of village Kanhai, the compensation amount of Rs.12,27,47,937.60/-was deposited in favour LAC, Gurugram, out of which Rs.11,20,50,371.55/- (91% approximately) have been taken by the landowners and the balance amount of Rs.1,06,97,566.05/- was pending in the account of LAC.

5. That it is submitted that the compensation amount Rs.4,11,199.30/- of the land in question has already been taken by the petitioners on 14.9.1994.”

10. It further appears that the Petitioners themselves had sought a reference under Section 18 of the LAA for enhancement and the enhanced compensation amount of Rs.2,11,84,476.95/- has been deposited in the reference Court on 23rd March, 1999 as per their share.

11. In view of the above facts, which have not been controverted by the Petitioners, the question of granting of any relief as prayed for in the present petition does not arise.

12. The petition is dismissed. The interim order stands vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

17th November, 2020

Davinder Kumar

Whether speaking / reasoned: Yes / No

Whether reportable: Yes / No