

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP No. 1948 of 2017

Date of Decision: 10th August, 2020

Bimla Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. M.L. Sharma, Advocate for the Petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Lokesh Sinhal, Advocate for HSIIDC.

Dr. S. Muralidhar, J.

1. This writ petition is the first in a batch of 11 writ petitions challenging the proceedings for the acquisition of land by the State of Haryana for its development and utilisation for residential, transport and communication purposes of Sectors 4 and 5, Rohtak. The present order will dispose of the present petition and form the basis of disposal of the remaining ten writ petitions in the batch. The challenge is to the Award dated 29th December 2004 and the preceding notices dated 4th January 2002 and 31st December 2002 under Sections 4 and 6 of the Land Acquisition Act, 1894 ('LAA') respectively.

2. In all these writ petitions, orders have been passed by this Court adjourning the proceedings *sine die* to await the decision of the Constitution Bench of the Supreme Court interpreting Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter the '2013 Act').

3. 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.

4. This Court has heard the submissions of learned counsel for the Petitioners as well as Mr. Ankur Mittal, Additional Advocate General, Haryana, appearing for all the Respondents. A detailed Chart in tabular form has been placed by him before the Court setting out the particulars with reference to each of these cases.

5. The common grievance in all these petitions is that the compensation amount has not been ‘tendered’ for the lands acquired and that their actual physical possession has not been taken over from the Petitioners.

6. As regards the first point regarding the payment of compensation, apart from the details set out in the chart, a summary report of the Land Acquisition Collector (LAC), Urban Estate Department in each of these cases has been placed on record. This summary report reflects two things. First is that the compensation amount has been deposited in the Court of the Additional District Judge (ADJ) and further that 71% of the total compensation stands disbursed. land owners. Secondly, as regards possession, copies of the *Rapat Roznamcha* have been placed on record, which reflect that in each of these cases, possession proceedings have in fact been drawn up.

7. Among the conclusions reached by the Constitution Bench in *Manoharlal (supra)* is that since the word “or” used in Section 24 (2) of the Act between the phrases “physical possession of the land has not been taken” and

been held that “in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.” [para 363 (3)] In other words, even if one of the two negative conditions is satisfied, there is no lapse of the land acquisition proceedings.

8. The other conclusion reached is that the mode of taking possession both under the LAA as well as under Section 24 (2) of the 2013 Act is by drawing up an inquest report/memorandum. It has categorically been held in para 245 of the judgment in ***Manoharlal*** (*supra*) 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.” It has further been clarified that 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 is 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. In view of the above conclusion of the Constitution Bench of the Supreme Court in ***Manoharlal*** (*supra*), in none of these 11 cases has any ground been made out, factually or legally, for interference either on the issue of possession or on the issue of payment of compensation. The Court directs that the detailed tabular chart prepared by the learned Additional Advocate General, together with the report in individual cases submitted by the LAC along with the copy of the *Rapat Roznamcha* be placed on the record of all these writ petitions.

10. In view of above position, there is no merit in this petition and it is dismissed as such.

(S. MURALIDHAR)
JUDGE

10th August, 2020
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes