

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23935-2016

Date of Decision: 17th November, 2020

Asha Rani

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN

Present: Mr.Karan Kaushal, Advocate, for
 Mr.HarkeshManuja, Advocate for the Petitioner.

Mr.Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. The challenge in this petition is to a notification dated 02nd January, 2002 under Section 4 of the Land Acquisition Act, 1894 (in short 'LAA') followed by a declaration dated 24th December, 2002 under Section 6 of the LAA followed by an Award dated 21st December 2004 in respect of the proceedings for acquisition of land in villages of Mangalpur, BudhaKhera, Phoosgarh and Karnal, Tehsil and District Karnal, for development and utilization of the land as residential and commercial area. The Petitioner is also seeking a declaration of deemed lapsing of 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'). The petition seeks a mandamus directing the Respondents to release the land of the Petitioner falling in village Phoosgarh on the ground that "even till today the possession of the land is with the Petitioner and her co-owners and no compensation has been received by any of them against the acquisition of their land".

2. While directing notice of motion to issue on 21st November, 2016, this

3. On 26th April, 2017 the Land Acquisition Collector filed a status report in which *inter alia* it is stated that possession of the acquired land was handed over to HUDA on the date of Award itself vide *rapatno.198* dated 21st December, 2014. As regards the compensation, it is stated as under:

“4. That the total compensation of the acquired land of the petitioners having 1/3 share land comprised in Khasra No.31//24/2 (5K-7M) and 25(6K-14M0 was Rs.3,32,657/- is pending and the petitioner is not coming forward to receive the compensation amount and not tendering the documents regarding ownership.

5. That supplementary Award no.12 was announced on 13.12.2006 for the compensation of trees and the total amount of Rs.60,322/- is pending with regard to trees on the land of the petitioner and the petitioner is not coming forward to receive the compensation amount and not tendering the documents regarding ownership.

6. That the total awarded amount of Award no.23 was Rs.17,89,84,665/- in which the Land Acquisition Collector has already disbursed the compensation amount Rs.17,66,74,997/- to the land owners. That as such 98% compensation amount has already been paid to the other land owners. Rest of the amount was not paid to the land owners because they are not coming forward to receive the compensation amount and not tendering the documents regarding ownership.”

4. It is further pointed out that earlier the Petitioner had filed CWP No.10485 of 2015 which has been disposed of by this Court on 25th May, 2015 granting liberty to the Petitioner to file a comprehensive representation before the appropriate authority. By an order dated 19th July, 2016, the Administrator, HUDA, rejected the representation “as more than 3000 residential plots have already been allotted in above mentioned Sectors. Furthermore the industry claimed by the Petitioner is in non-conforming use and the land in question falls within the proposed site of EWS housing, hence the claim of the Petitioner was rightly declined for release of land”.

5. A further affidavit has been filed by the Land Acquisition Collector on 5th March, 2018 giving updated position as regards disbursement of the compensation, which reads as under:

“ The total amount of compensation of awarded land measuring 272.88 acres of village Phoosgarh worked out to Rs.17,89,84,665/-. Out of the total compensation amount, the LAC had already disbursed an amount of Rs.17,66,74,997/- to the landowners, which constitutes 98% of the total Award amount. Hence, compensation of majority of land holdings has been paid by the LAC. The balance amount of Rs.23,09,671/- in respect of which the landowners did not come forward to receive the payment, is lying deposited in the account of LAC.”

6. The present petition was adjourned awaiting the decision of the Constitution Bench of the Supreme Court which has now been delivered in ***Indore Development Authority v. Manoharlal AIR 2020 SC 1496.***

7. In view of the facts stated in the status report which have not been controverted by the Petitioners by filing any replication, no ground has been made out to grant any relief prayed for particularly in view of the settled legal position as explained by the Supreme Court in ***Manoharlal (supra).***

8. There is no merit in the petition and it is dismissed as such. 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