

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9886-2015

Date of Decision: 17th November, 2020

Anita and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN

Present: Mr. Vikram Singh, Advocate, for the Petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. The prayer in this petition is to quash an order dated 14th April, 2015 passed by the Secretary-cum-Director General, Urban Estates Haryana Department recommending rejection of the claim of the Petitioners made by a representation consequent upon an order dated 9th October, 2014 passed by this Court in CWP no.20854 of 2014 (*Anita and others v. State of Haryana and others*), the operative portions of which reads as under:

“The petitioners are statedly owners of the land fully described in para-2 of the writ petition. They impugn acquisition of their land/shops/residential plots carried out vide Award dated 23.3.1993, on the premise that since possession of the acquired land has not been taken from them, the provisions contained in Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall apply and the old acquisition is deemed to have lapsed. The petitioners have also placed on record certain photographs to substantiate their plea.

The question whether possession has been taken or not, is essentially a question of fact. In such like situation, this Court in CWP No.6267 of 2014 (*Gurjeet Singh and others versus State of Punjab and others*) decided on 01.04.2014, has observed as follows:-

“...The question whether physical possession of the entire land was taken by the authorities or the petitioners continue to retain the same without intervention by any Court, can also be effectively decided by the respondents on verification of the record. We thus, dispose of this writ petition without expressing any views on merits, with a direction to respondent Nos.2 & 3 to treat this writ petition as representation-cum-claim petition on behalf of the petitioners and decide the same in accordance with law or in the light of the observations made herein-above, within a period of three months from the date of receiving a certified copy of this order....”

The instant writ petition is also thus disposed of in the above-reproduced terms.

If the petitioners have raised any construction, demolition thereof shall remain stayed till the matter is decided by the authorities.

Ordered accordingly.”

2. An additional prayer in the present petition is for 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, ‘the 2013 Act’).

3. The impugned order reveals that the land in question in khasra No.34/13 in village Kanhai, District Gurugram was notified on 24th January, 1990 under Section 4 of the Land Acquisition Act, 1894 (in short ‘LAA’) for development of Sector 45, Gurugram. The objections filed by the Petitioners under Section 5-A of the LAA were rejected. While a constructed area measuring 4 kanals 0 marla was excluded from the declaration dated 18th April, 1991 under Section 6 LAA, the remaining vacant land was acquired by the Award dated 23rd March, 1993. The impugned order also notes that the possession of the land was handed over to HUDA on the date of the Award under rapat no.425. The impugned order notes that the Petitioners were not paid compensation since they did not submit their consent in writing to receive compensation and also did not submit the relevant

documents to prove their ownership. It is, however, mentioned that the undisbursed compensation is still lying in the account of the Land Acquisition Collector, Gurgaon (in short 'LAC').

4. After the judgment of the Constitution Bench of the Supreme Court in ***Indore Development Authority v. Manoharlal AIR 2020 SC 1496*** none of the grounds for declaration of deemed lapsing of the land acquisition proceedings exists. Therefore, none of the prayers in the present petition can be granted. However, in view of what is stated in the impugned order it will be open to the Petitioners to approach the LAC for release to them of the compensation to which they are entitled in accordance with law.

5. The petition is dismissed in the above terms. The interim order is hereby vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

17th November, 2020

Davinder Kumar

Whether speaking / reasoned: Yes / No

Whether reportable: Yes / No