

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206-1

CWP No. 2675 of 2018

Date of Decision: 11th August, 2020

Pohap Singh and others

....Petitioners

VERSUS

State of Haryana and others

....Respondents

206-2

CWP No. 3273 of 2018

Krishan and others

Petitioners

Versus

State of Haryana and others

Respondents

206-3

CWP No. 2876 of 2018

Inderjeet and others

....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM: JUSTICE S. MURALIDHAR

JUSTICE AVNEESH JHINGAN

Present: Mr. Jai Vir Yadav, Advocate for the Petitioners in CWP-3273-2018.

Mr. Sushil K. Sharma, Advocate for the Petitioners in CWP-2675-2018.

Mr. Neeraj Gupta, Advocate for the Petitioners in CWP-2876-2018.

Mr. Lokesh Sinhal, Sr. Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. These are three petitions challenging the land acquisition proceedings culminating in the Award dated 9th March, 2006 following a notification dated 17th September, 2004 under Section 4 of the Land Acquisition Act, 1894 ('LAA') and a notification dated 27th October, 2004 under Section 6 of the LAA. The acquisition, *inter alia*, was of land in Khasra Nos. 25//22/2 (2-0), 28//2/1 (3-11), 3/2 (5-2), 7/1/1 (1-16), 8/1 (4-0), 31//15 (8-0), 16/1 (5-7), 32//10/1 (0-8), 10/2 (0-16), 20/2 (6-0), 1//2/2, 8, 9/3, 9/5, 2//2/2, 3, 9/1, 9/2, 9/4, 28//4/2 (0-17), 6/2 (2-8) and 7 (5-0), situated in Tehsil Manesar, District Gurgaon (hereinafter, 'subject land') for the public purpose of "setting up of Chaudhari Devi Lal Industrial Model Township, Phase-V Manesar to be planned and developed as an integrated complex for Industrial, Institutional, Commercial, Recreational and other public utilities".

2. The present petitions were by an order dated 28th November, 2019 adjourned *sine die*, awaiting the judgment of the Constitution Bench of the Supreme Court of India, interpreting Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter the '2013 Act'). On 6th March, 2020, the Constitution Bench of the Supreme Court delivered its judgment in a batch of Special Leave Petitions (SLPs) and appeals, the lead cases of which were 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.

3. One of the major conclusions of the Supreme Court in the ***Manoharlal*** (*supra*) is that even if one of the two negative conditions in Section 24 (2) of the 2013 Act

stands satisfied, there would be no deemed lapsing of the land acquisition proceedings.

4. The common grievance in these three petitions is that possession of the subject lands remains to be taken and the Petitioners are yet to receive compensation for their acquisition.

5. Mr. Lokesh Sinhal, Senior Additional Advocate General, Haryana has placed on record the status as regards payment of compensation to the Petitioners in these three petitions. He has also placed on record the details of the possession proceedings by which possession of the subject land has been taken and handed over to the Haryana State Industrial and Infrastructural Corporation.

6. As far as possession of the subject lands is concerned, in relation to the land in CWP No. 2675 of 2018, possession proceedings have been drawn up by Rapat No. 650 dated 9th March, 2006; in relation to the land in CWP No. 3273 of 2018, possession proceedings have been drawn up by Rapat No. 707 dated 22nd March, 2006, and, in relation to the land in CWP No. 2876 of 2018, possession proceedings have been drawn up by Rapat No. 902 dated 31st May, 2013. As regards the question of possession, the Supreme Court has clarified in para 245 of the said judgment in ***Manoharlal*** 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. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. 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 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."

7. As regards compensation, it is stated that the compensation amounts for acquisition of the subject land in each of these petitions, were deposited in the Court of the Additional District Judge, Gurgaon by cheque no. 492757 dated 5th August, 2014, but was not lifted by the Petitioners.

8. With both negative conditions in Section 24 (2) of the 2013 Act being fulfilled, there is no occasion to grant the relief prayed for in these petitions.

9. The petitions are without merit and are dismissed as such.

10. A copy of this order be placed in the files of other connected matters.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

11th August, 2020
Sachin M.