

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-5664-2017 (O&M)
Decided on: 10th August, 2020

Ashok Kumar Batra and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

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

Present: Mr. Sanjiv Ghai, Advocate for the Petitioners.

Mr. Ankur Mittal, Addl. Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. The challenge in the present petition is to the acquisition proceedings culminating in an Award dated 27th June, 2008 following a notification dated 30th June, 2005 under Section 4 of the Land Acquisition Act, 1894 (LAA) and a notification dated 5th July, 2006 under Section 6 of LAA for the acquisition of 23 kanal 4 marlas in khasra No. 14//10(8-0), 15//6 (7-12), 7 (7-12) situated in the revenue estate of Village Rasoi, Tehsil and District Sonapat.

2. A status quo order was passed by this Court in the present petition on 18th March, 2017. Thereafter, the petition was adjourned *sine die* on 28th November, 2019 awaiting the judgment of the Constitution Bench of the Supreme Court. That judgment has now been delivered on 6th March, 2020 in a batch of Special Leave Petitions (SLPs) and appeals, the lead case of which was S.L.P. (C) Nos. 9036-38 of 2016 (***Indore Development***

363 of the judgment has set out the answers to the various questions that arose for consideration.

3. At the outset it requires to be noted that earlier these very Petitioners had filed CWP-11208-2008 challenging the acquisition proceedings. The said writ petition was dismissed by this Court on 8th December, 2008 by a detailed order, which became final. Thus the challenge to the acquisition proceedings stood concluded.

4. Relevant to this fact, is the conclusion reached by the Constitution Bench of the Supreme Court in para 363 (9) of the judgment in **Manoharlal** (*supra*), which reads as under:

“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.”

5. On this short ground, therefore, this petition which seeks to reopen the challenge to the acquisition, ought to be dismissed.

6. Nevertheless, Mr. Sanjiv Ghai learned counsel appearing for the Petitioners, urges that even in terms of the decision in **Manoharlal** (*supra*), this would be a case of inaction by the Government to take possession of the land in question and, therefore, the remedy of the Petitioners under the 2013 Act is not foreclosed.

7. As far as the taking of possession is concerned, reliance is placed by Mr.

for Respondents upon Rapat No.849 dated 27th June, 2008 whereby the possession was handed over to the HSIDC.

8. Although Mr. Ghai seeks to question the correctness of this report and insists that the proceedings drawn up for taking possession from the Petitioners should be asked to be produced, para 245 of the judgment in **Manoharlal** (*supra*) provides a complete answer. There it was observed as under:

“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 trespasser always inures for the benefit of the real owner that is the State Government in the case.”

9. Consequently, Mr. Ghai's repeated assertion that the Petitioners' standing crops are still on the land, remaining to be harvested, and that they continue to remain in possession is to no avail.

10. The Supreme Court in **Manoharlal** (*supra*) clarified that even if one of the two negative conditions of Section 24 (2) of the 2013 Act stands satisfied, there would be no deemed lapsing of land acquisition proceedings. Apart from the above position regarding possession having been taken by the State, the Court is informed that the compensation amount payable to the Petitioners stands deposited in the Court of learned Additional District Judge on 6th April, 2015 but has not be lifted by the

Petitioners.

11. Mr. Ghai joins issue on this submission by stating that compensation was deposited after coming into force of the 2013 Act and, therefore, there was no compliance of the requirement of Section 31(1) of LAA. The Court finds that there is a detailed discussion in *Manoharlal (supra)* on what amounts to tendering of compensation under the LAA. The Supreme Court observed that it is only when the compensation tendered is not accepted that resort is had to depositing the amount in the Court. It has further been clarified by the Supreme Court in *Manoharlal (supra)* that it is only when compensation is not paid to the majority of the land owners for five years or more that the non-compliance of the negative condition concerning compensation gets attracted. Factually, it has been shown to this Court that the compensation with regard to 85.5% of the land stands paid in the present case. Consequently, there is no ground made out for interference. The petition is dismissed. The status quo order is vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

10th August, 2020
Sham

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No