

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

CWP-6075-2017 (O&M)
Decided on: 10th August, 2020

Kapil Gupta and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

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

Present: Mr. Arjun Pratap Atma Ram, Advocate
for the Petitioners.

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

Dr. S. Muralidhar, J.

1. This petition questions the acquisition proceedings culminating in an Award dated 1st June, 2000 following a notification dated 4th June, 1997 under Section 4 of the Land Acquisition Act, 1894 (LAA) and a notification dated 2nd June, 1998 under Section 6 of LAA for acquisition of 3 *kanals* 19 *marlas* of land in Khasra Nos. 121/21/2 and 130/1/1. The land was acquired for the “development and utilization of land pockets as residential, commercial and industrial area for Sectors 17 and 19 Jagadhari Yamuna Nagar”.

2. While in the present petition no status quo order was passed, by an order dated 28th November, 2019 this Court adjourned the petition *sine die*, 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), the lead cases of which were SLP (C) Nos. 9036-38 of 2016 (**Indore Development Authority v. Manoharlal and others, Etc.**). The Constitution Bench in para 363 of the judgment has set out the answers to the various questions that arose for consideration.

3. Relevant to the petition at hand, one conclusion of the Supreme Court is that Section 24 (2) of the 2013 Act does not give rise to any new cause of action as to the legality of concluded land acquisition proceedings.

4. As far as the present Petitioners are concerned, they had earlier filed CWP-7347-2002 challenging the acquisition proceedings. The said petition came to be dismissed by a detailed order dated 10th May, 2002 of this Court, which became final. Consequently, on the short ground that the challenge to the acquisition proceedings already stood concluded, and cannot be reopened, the present petition is liable to be dismissed.

5. The second ground concerns actual physical possession not having been taken of the land in question. As far as this issue is concerned a Rapat No.455 dated 1st June, 2000 has been placed on record by the Land Acquisition Collector (LAC) to show that proceedings were drawn up at the time of the State taking possession. The Supreme Court has clarified in para 245 of the judgment in **Manoharlal** (*supra*) that when the State Government acquires land and drawn a memorandum of taking possession, that amounts to taking the physical possession of the land.

6. It has further been clarified in **Manoharlal** that even if one of the two negative conditions of Section 24 (2) of 2013 Act, is fulfilled then there shall be no deemed lapsing of land acquisition proceedings.

7. As regards the issue of disbursement of compensation, the Court is

informed that the compensation amount payable to the Petitioners lies

deposited with the LAC but has not be lifted by the Petitioners. Further of the total amount of compensation payable for the acquisition, 61% has already been disbursed, therefore, even this condition stands fulfilled. In terms of the decision in *Manoharlal*, even this ground is not available to the Petitioners.

8. For all the aforementioned reasons, there is no merit in the present petition and it is dismissed as such.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

10th August, 2020
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No