

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

**CWP No. 9960 of 2018
Date of decision : 11.11.2020**

Kewal Krishan

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Ranjit Saini, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana.

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(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

RAVI SHANKER JHA, CHIEF JUSTICE

1. This petition has been filed for issuance of a writ in the nature of mandamus directing the respondents not to act upon Notifications dated 02.05.2001 and 30.04.2002 (Annexures P-3 and P-4) issued under Section 4 and 6 of the Land Acquisition Act, respectively.
2. Shorn of unnecessary details, the factual backdrop of the present case as claimed by the petitioner is that his land comprised in Khewat No. 73

Khatoni No. 105 measuring 105 square yards situated within revenue limits of TejliHadbast No. 409 Hadbast No. 409 Tehsil Jagadhri District Yamuna Nagar was purchased by his mother namely Smt. Jai Rani who has since died and thus, the petitioner being one of the LRs of the deceased Jai Rani has filed the present petition seeking lapsing of the acquisition of his land vide notifications dated 2nd May, 2001 and declaration under Section 6 dated 30.04.2002 followed by the award under Section 11 of 1894 Act dated 27.04.2004; thereby acquiring land for the development and utilization of land as residential, commercial area for Sector – 15, Jagadhri; by invoking the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the ground that physical possession of the land is with him and also the compensation for the land acquired is neither paid nor deposited in the Ld. Court.

3. That in support of his claim, the petitioner has pleaded that for the purpose of developing Sector – 15, Yamuna Nagar, the acquisition proceedings were carried out many a times. Initially three efforts made i.e. in the year 1969, 1974 and 1980 for acquiring the land and the acquisition proceedings were allowed to lapse. Afterwards, another notification under Section 4 of the Land Acquisition Act, 1894 was issued on 24th April, 1987 which was including the land in question as owned by her mother at that point of time. It was claimed that some land owners challenged the process of acquisition

by filing CWP No. 3269 of 1990 which was allowed and the declaration issued under Section 6 of the Land Acquisition Act, 1894 was quashed.

4. It is further contended by the petitioner that after a period of 14 years, the acquisition proceedings were once again initiated vide notification and the award in question. He thus pleaded that neither the amount of compensation is paid to him nor the physical possession was ever taken from him.
5. That after coming into effect the report to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 w.e.f. 01.01.2014 whose Section 24 (2) had granted yet another opportunity to the land owners to seek declaration about lapsing of the acquisition proceedings occurred under the 1894 Act which was that the land owners can seek lapsing of the acquisition proceedings if the physical possession has not been taken or the compensation is not paid or deposited or both; if the period of more than five years have elapsed on the date of commencement of the 2013 Act from the date of the award announced under Section 11 of the 1894 Act.
6. Thousands of writ petitions were filed seeking lapsing of the acquisition in this Hon'ble Court, other Hon'ble Courts as well as in the Hon'ble Supreme Court of India. The first authoritative adjudication on to the aspect of lapsing claimed under Section 24 (2) of 2013 Act from the Hon'ble

Supreme Court of India was in the case of ***Pune Municipal Corporation Vs. Harakchand Misirimal Solanki AIR 2014 SC 982***. Following the said judgment, many judicial pronouncements were given by this Court as well. One of them was ***Sunita Sherawat and others Vs. State of Haryana and others in CWP No. 6652 of 2014 decided on 01.05.2015***. Relying upon the same the present petition was filed to contend that in his case both the contingencies to seek lapsing are fulfilled.

7. The present writ petition was filed in the year 2018. Needless to mention here that by the time the present petition had been filed many judicial pronouncements had come. The judgment passed by the Hon'ble Supreme Court of India in ***Pune Municipal Corporation (supra)*** was doubted by another Three Judges Bench in ***Indore Development Authority Vs. Shalendra (dead) SLP (C) 2131 of 2016***. The said judgment was passed wherein a contrary view was taken from ***Pune Municipal Corporation (Supra)***. Subsequently, all the issues and the controversies related to Section 24 (2) of Land Acquisition Act, 2013 was referred to the Hon'ble Chief Justice for constitution of a Larger Bench and accordingly, the Hon'ble Five Judges Bench was constituted.
8. During the pendency of the same, the present petition like many other writ petitions were kept pending and in fact adjourned sine die to await the decision of the Hon'ble Supreme Court of India. It is an admitted position that the judgment in ***Indore Development Authority Vs. Manohar Lal*** has now come on 6th March, 2020 and the judgment is reported as ***AIR 2020***

SC 1496. As a consequence thereto, on the request of the State of Haryana, all the writ petitions kept pending awaiting the decision of the Hon'ble Supreme Court of India was ordered to be listed and this is how the present petition has been listed for hearing.

9. In response to the pleadings made by the petitioner, Mr. Ankur Mittal, Additional Advocate General Haryana has vehemently argued that the present writ petition deserves to be dismissed not only on the ground of the adjudication of the controversy in hand by the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manohar Lal but even otherwise on merits, the present petition deserves dismissal as the land claimed by the petitioner was never acquired vide the notifications/award in question whose lapsing has been sought. Mr. Mittal further on the instructions of concerned Land Acquisition Collector has informed this Court that the land in question as claimed by the petitioner is part of Khasra No. 716 which in fact came to be acquired in the earlier acquisition proceedings wherein the notification under Section 4 of 1894 Act was issued on 21.04.1987 and the declaration under Section 6 of 1894 Act was issued on 20.04.1987 which were followed by the award under Section 11 of the 1894 Act dated 17.04.1990. The mother of the petitioner was recorded owner of the land in question who accordingly accepted the amount of compensation. He further stated that some of the land owners had filed CWP No. 3269 of 1990 which was allowed by this Hon'ble Court on 29th September, 1992. The petitioner's mother had accepted the compensation and did not challenge the acquisition proceedings. He has

further informed this Court on instructions that the land had already been acquired but the Khasra No. 716 as claimed by the petitioner in the present petition was inadvertently included in the notifications issued under Section 4 & 6 of 1894 Act dated 02.05.2001 and 30.04.2002 respectively. At the time of announcing the award on 27.04.2004, this mistake came to the notice of the authority and accordingly, the land in question which stood already acquired and for which compensation had already been accepted by the mother of the petitioner, was not made the part of the award dated 27.04.2004.

10. As far as the judgment of the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India, Mr. Mittal has argued that all the issues revolving around Section 24 (2) of 2013 Act have been put at rest by the Hon'ble Supreme Court of India. While referring to Paras 99, 244, 245 and finally para 363 of the judgment of the Hon'ble Supreme Court of India, he has argued that to claim lapsing under Section 24 (2), it is mandatory that both the contingencies are required to be fulfilled as the word "**or**" has to be read as "**and**" or "**nor**". As far as the payment of compensation is concerned, the Hon'ble Supreme Court of India has clarified that the word "**paid**" figuring in Section 24 (2) of 2013 Act is to be taken as '**tender**' that means the amount was available with the Land Acquisition Collector at the time of announcement of the award. The comprehensive guidelines have been given in Para 363 of the judgment of Hon'ble Supreme Court of India. Further he has submitted that the reliance placed on Pune Municipal

Corporation (*Supra*) and Sunita Sehrawat (*Supra*) is of no help to the petitioner, since the Hon'ble SC in Indore Development Authority v. Manoharlal in para 362 has categorically overruled the judgment passed in Pune Municipal Corporation (*Supra*) and all the judgments that were passed placing reliance on the same. While summing up he has argued that present petition deserves dismissal on the simple ground that the land of the petitioner is not acquired vide notifications of whose lapsing the petitioner is seeking. Besides that the land in question was originally owned by the mother of the petitioner (as admitted by the petitioner in para 2 of the petition) which was acquired vide award dated 17.04.1990 and for which the amount of compensation it has also been accepted by the mother of the petitioner. In support of his submissions, Mr. Mittal has forwarded a short synopsis giving necessary particulars/details for the acquisition of the land in question as the matter is being heard through video conferencing. The photocopy of the same is ordered to be placed in the Court file.

11. This Court has examined the prayer clause. The prayer clause 'b' to 'c' are reproduced hereunder:-

“...b) writ in the nature of mandamus directing the respondents not to act upon Notifications issued dated 02.05.2001 (Annexure P-3) issued under Section 4 of the Land Acquisition Act bearing No. PAC-(P)-NTLA-2001/3826, whereby the Land of the petitioners was sought to be acquired for development and utilization of land as residential and commercial area for Sector 15, Jagadhri under the Haryana Development Act 1977 by the Haryana Urban Development Authority in the area of TejliHadbast No. 409, Tehsil Jagadhri, Distt. Yamuna Nagar and notification dated 30.04.2002 (Annexure P-4) under section 6 of the Land Acquisition Act bearing No. LAC-NTLA-2002/3188 and award dated 27.04.2004 (Annexure P-5) and prohibiting the respondents from taking possession of the land of

petitioner's situated in area of Urban Estate Jagadhri, as the acquisition proceedings qua the Petitioner land stood lapsed in view of provisions of Section 24 (2) of The Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("2013 Act") as physical possession of the said land is till date with the petitioner, and also the compensation has neither been paid to the petitioner nor deposited in the court.

c) FURTHER to issue writ in the nature of Prohibition, prohibiting the Respondents from interfering in the peaceful possession of Petitioner lands situated in the Revenue Estate of Jagadhri as acquisition proceedings qua the Petitioner lands stood lapsed in view of provisions of Section 24 (2) of The Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which has come into effect on 01.01.2014..."

12. Undoubtedly the petitioner is claiming lapse of the acquisition proceedings of his land by maintaining that his land was acquired vide notifications under Section 4 & 6 of the 1894 Act dated 02.05.2001 and 30.04.2002 respectively which was followed by the award dated 27.04.2004. He has also maintained that he is in physical possession of the land besides that compensation has not been paid and thus, claims that the acquisition proceedings have lapsed.

13. In view of the specific stand taken by Mr. Mittal duly supported with the report of Land Acquisition Collector, Panchkula which he has forwarded to this court, nothing survives in the present petition which merit consideration of this Court. In fact, whole case made by the petitioner falls flat simply on the ground that the land in question was never acquired vide aforesaid notifications/award in question and indeed, it had already been acquired way back vide award dated 17.04.1990 for which the compensation had already been accepted by the recorded owner who is the

mother of the petitioner. The said notification is not under challenge here.

If that being so, the land stands vested in the State. The land in question is not the part of the notification/award in question, hence, we are in agreement with Mr. Mittal that the present petition merits dismissal on this ground aloof.

14. As far as the aspect of seeking lapsing of Section 24 (2) of 2013 Act is concerned, this Court has already gone through in detail the judgment passed by the Hon'ble Supreme Court of India while deciding batch of 126 writ petitions with the lead case being ***CWP No. 18718 of 2016 dated 12.10.2020 titled as Daya Ram and others Vs. State of Haryana and others*** wherein the judgment passed by the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India in ***Indore Development Authority Vs. Manoharlal*** (supra) was minutely and thoroughly examined. As far as the present case is concerned, since, the specific stand of the State is that the land in question is not acquired vide the acquisition proceedings of whose lapsing has been sought, this court does not deem it appropriate to examine the applicability of Indore Development Authority v, Manoharlal to the present case in detail.
15. In conspectus of what has been discussed above and the specific stand taken by Mr. Ankur Mittal Additional Advocate General Haryana on instructions from the concerned Land Acquisition Collector, nothing survives in the present petition and accordingly, the present petition is hereby dismissed. Needless to observe that with the dismissal of the present

petition, all/any pending applications also stand dismissed. fate. Interim order, if any, stands vacated.

Petition dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

November 11, 2020
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