

CWP No.927 of 2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.927 of 2021

Date of Decision: 30.09.2021

Kishan Dass & others

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Ajay Jain, Advocate, for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Ms. Kushaldeep Kaur, Advocate, for the respondents.

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, petitioners have approached this Court for quashing of notification dated 17.11.2005 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 07.02.2006 (Annexure P-4) issued under Section 6 of the 1894 Act and the award dated 02.03.2006 (Annexure P-5) in respect of land measuring 14 kanal 6 marla comprised in Khewat No.304, Khata No.436, Killa No.41//13/2 (0-7), 14/2 (4-9), 16/2 (2-0) and 17 (7-2) situated within the revenue estate of village Aswarpur, Tehsil and District Sonapat, being illegal, arbitrary and against the provision of the Act and Rules framed thereunder and Article 300-A of the Constitution of India.

2. Counsel for the petitioners asserts that petitioner No.1 is

running a firm in the name and style M/s M K Enterprises and petitioner No.4 is running a firm in the name and style of M/s Paras Steel Industries on the land in question. The Government of Haryana issued a notification dated 17.11.2005 (Annexure P-1) for acquisition of the land measuring approximately 1948-52 acre including the land of the petitioners for development of Sectors 65, 66,67 and 68, to which detailed objections (Annexure P-2) were submitted but the same were rejected and recommended for acquiring the said land, copy of which is Annexure P-3. Thereafter, notification under Section 6 of 1894 Act, dated 07.02.2016 (Annexure P-4) was issued.

Petitioners had approached this Court for quashing of the notifications by filing CWP No.3806 of 2006, titled as 'Kishan Dass & others Vs. State of Haryana & others', which was dismissed vide order dated 03.04.2008 (Annexure P-6). Assailing the said order, petitioners had approached the Hon'ble Supreme Court by filing SLP, which was also dismissed vide order dated 24.02.2015 (Annexure P-7), however, liberty was granted to make appropriate application under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') before the appropriate authority within a period of one month.

Petitioners had moved an application under Section 24 (2) of 2013 Act on 18.03.2015, which was dismissed vide speaking order dated 16.02.2017 (Annexure P-8). Petitioners again approached this Court by filing CWP No.3841 of 2017, titled as 'Kishan Dass & others Vs. State of

Haryana & others', challenging the impugned notifications and speaking order dated 16.02.2017 (Annexure P-8), which is pending adjudication.

Counsel asserts that no award in respect of the super structure existing on the land in question has been passed till date. Even in the written statement (Annexure P-9) filed by the respondents in CWP No.3806 of 2006, it was admitted that the unit of the petitioners is running on the land in question and the same has been acquired after a thorough survey and in consonance with the approved and final plan prepared in the year 2013, for which compensation would be given to the petitioners as per the Act/Rules for structure falling within the prescribed area. As per the information received from the respondents, assessment of structures on Khasra No.41/1, 13/2, 14/2, 16/2, 17/2 has not been carried out. Counsel, therefore, submits that neither compensation has been paid till date nor deposited with the Court. Prayer has, thus, been made that the notifications dated 17.11.2005 (Annexure P-1) and 07.02.2006 (Annexure P-4) as also the award dated 02.03.2006 (Annexure P-5) be quashed.

3. On the other hand, learned counsel for the respondents submits that the possession of the land in question has already been taken vide Rapat No.71 dated 02.03.2006. Relying upon the judgment of the Hon'ble Supreme Court in Indore Development Authority Vs. Manoharlal and others 2020 (AIR) SC 1496, counsel submits that the taking of possession through Rapat Roznamcha entry has been held to be a valid mode of taking possession of land. Counsel further submits that out of total compensation amount of ₹3,34,90,10,540/-, an amount of ₹2,60,58,18,572/- has been

paid/disbursed and rest of the amount including that of the land in question is available for disbursement and the petitioners are at liberty to receive/collect the same.

4. Counsel further submits that the claim of the petitioners was considered and rejected under Section 24 (2) of the 2013 Act by passing a speaking order dated 16.02.2017 (Annexure P-8) and that speaking order has been challenged by the petitioners by filing CWP No.3841 of 2017, titled as 'Kishan Dass & others Vs. State of Haryana & others', which has been dismissed by this Court today. Therefore, the present writ petition deserves dismissal.

5. So far as the contention of the learned counsel for the petitioners that no award has been announced till date with regard to the super structure existed on the land in question is concerned, counsel for the respondents submits that if the award for any building/super structure has not been announced, the petitioners can claim the same by filing a reference under Section 18 of the 1894 Act, which remedy has not been availed by them. To substantiate this contention, learned counsel for the respondents has placed reliance upon the judgment passed by the Hon'ble Supreme Court in Mohanji & another Vs. State of U.P. & others 1996 (27) ALR 76: 1995 (8) JT 599 and State of Punjab & others Vs. Sharan Pal Singh & others 1996 (11) SCC 683. He, thus, submits that the writ petition deserves to be dismissed.

6. We have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the

pleadings as well as the various judgments passed by the Hon'ble Supreme Court.

7. The facts, as have been narrated above, have not been disputed. Notifications under Sections 4 and 6 of the 1894 Act were issued on 17.11.2005 (Annexure P-1) and 07.02.2006 (Annexure P-4) respectively, leading to the passing of the award dated 02.03.2006 (Annexure P-5). Petitioners are asserting themselves to be owner in possession of land measuring 14 kanal 6 marla comprised in Khewat No.304, Khata No.436, Killa No.41//13/2 (0-7), 14/2 (4-9), 16/2 (2-0) and 17 (7-2) situated within the revenue estate of village Aswarpur, Tehsil and District Sonapat and seeking quashing of the impugned notifications and award.

8. The possession of the land in question has been taken vide Rapat No.71 dated 02.03.2006. As per the judgment of the Hon'ble Supreme Court in *Indore Development Authority's* case (supra), taking of possession through Rapat Roznamcha entry is a valid mode of taking possession of land. Further, out of total compensation amount of ₹3,34,90,10,540/-, an amount of ₹2,60,58,18,572/- has been paid/disbursed and rest of the amount including that of the land in question is available for disbursement and the petitioners are at liberty to receive/collect the same.

9. So far as the assertion of the learned counsel for the petitioners that no award has been passed till date for super structure existing on the land in question, the said assertion cannot be accepted as the compensation has been determined in the award for the land in question and it has been mentioned therein that there are existing structures etc. and assessment of

the same has not been received from the Engineer Cell, HUDA Sonapat and supplementary award of the same will be announced after the receipt of the assessment from the concerned authority. In the considered view of this Court, no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law and therefore, the award dated 02.03.2006 (Annexure P-5) must be construed as the whole award made under Section 11 awarding compensation for the entire area measuring 14 kanal 6 marla with no compensation awarded for the super structure. The petitioners have a right to file a reference under Section 18 of the 1894 Act seeking compensation for the super structure. The case of the petitioners is squarely covered against them by the judgment of the Hon'ble Supreme Court in *Mohanji & others'* case (supra) and *State of Punjab & others'* case (supra).

10. In view of the above, we do not find any merit in the present writ petition and therefore, dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

30.09.2021
Harish

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No