

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

**RA-79-2021- in
CWP-3043-2021
Date of Decision:-16.03.2021**

Rachna and Another

... Applicants-Petitioners

Versus

State of Haryana and Others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. P.R. Yadav, Advocate
for the applicants/petitioners.

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

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The applicants-petitioners have filed this application under
Order 47 Rule 5 CPC read with Article 226 of the Constitution of India
seeking review of the order dated 25.2.2021 passed by this Court in CWP-
3043-2021 for quashing of Notification dated 30.10.1992 issued under
Section 4 and Notification dated 28.10.1993 issued under Section 6 of the

Land Acquisition Act, 1894 and Award dated 26.10.1995 passed by the Land Acquisition Collector alongwith all the subsequent proceedings arising therefrom, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as neither the possession of their building was ever taken nor the compensation was ever paid to them/their predecessor-in-interest with further directions to the respondents not to demolish the house in question and interfere into peaceful possession of the applicants-petitioners.

After hearing the counsel for the applicants-petitioners and the State counsel, the said writ petition was dismissed by order dated 25.02.2021. The operative part of the order reads as follows:-

*“The Constitution Bench of Hon’ble Apex Court in **Indore Development Authority** vs. **Manoharlal and others**, AIR 2020 (SC) 1496, has held that ‘the act of vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances’. The Hon’ble Apex Court further clarified that in case possession has been taken, compensation has not been paid, then there is no lapse. Similarly, if compensation has been paid, possession has not been taken, then also there is no lapse. The Hon’ble Apex Court further clarified that Section 24(2) of the Act of 2013 cannot be used to revive dead and stale claims and concluded cases.*

In the present case, impugned Award was passed on 26.10.1995, meaning thereby that the claim raised by the

petitioners in the present writ petition is stale. Also, as the possession stands taken, the lapsing under Section 24(2) of the Act of 2013 could not be sought in the present case by the petitioners. Consequently, this writ petition is hereby dismissed being devoid of merits.”

The present application has been moved by the applicants-petitioners seeking review of the aforesaid order on the following grounds:-

- (i) That property in question was owned by Rajinder Kumar father of the applicants-petitioners, who died on 24.5.1995 before the passing of the impugned Award and at that time, petitioner No.1 was aged about 13 years while petitioner-2 was just 10 months only. The applicants-petitioners came to know about the acquisition in question only in October 2019, when in a suit for partition of the property in question, revenue official appeared as DW-2 on 19.10.2019. Thereafter due to COVID-19 Pandemic, lock down was imposed and the writ petition was filed on 8.2.2021. The delay in filing of writ petition stands fully explained.
- (ii) Some of the acquired land including Khasra No.1101(1-8) was released from acquisition by the Government. The applicants-petitioners are also

seeking release of their acquired land on the basis of parity.

(iii) The property in question which is a residential house is surrounded by other residential houses. However the neighbouring residential houses have either not being acquired or released from acquisition, as is clear from site plan dated 13.02.2021. On the same basis the applicants-petitioners have sought parity.

(iv) In the connected writ petition filed by other land owners, the Co-ordinate Bench while issuing notice of motion for 10.5.2021, has passed order of status quo regarding construction existing at the spot.

The counsel for the applicants-petitioners contended that the aforesaid grounds were pleaded in the writ petition and even the counsel for the applicants-petitioners addressed arguments regarding the same. However in the impugned order no findings with regard to the aforesaid grounds were given by this Court. The counsel for the applicants/petitioners further argued that thus the impugned order deserves to be reviewed.

The Sate counsel while supporting the order dated 25.2.2021, submitted that the review application is totally misconceived and deserves to be dismissed.

We have considered rival contentions addressed by counsel for the parties.

It is settled law that a review is by no means an appeal. The appreciation of evidence cannot be permitted to be advanced in the review petition. Furthermore a party is not entitled to seek a review of an order merely for the purpose of re-hearing and a fresh decision of the case.

We are taking up all the four grounds mentioned in the review application despite the fact that the scope of review is very limited in nature.

Ground No.I

No authentic document was placed on the record of the writ petition as well as the review application regarding age of the applicants-petitioners to establish that at the time of passing of Award dated 26.10.1995 both of them were minor. As per the applicants-petitioners, they were 13 years and 10 months old respectively, at the time of passing of the Award, in that case also applicant-petitioner No.1 attained age of majority in the year 2000 while applicant/petitioner No.2 became major in the year 2013. The present writ petition was filed in February, 2021. The applicants-petitioners cannot take any benefit of the civil suit which was relating to partition of the property. Even their mother who was alive at the time of the passing of Award dated 26.10.1995, never challenged the award. So this Court

while passing the impugned order dated 25.2.2021 rightly observed that the claim of the applicants-petitioners is stale.

Grounds No. I and II

This Court has relied upon the decision of Constitutional Bench of the Hon'ble Apex Court in Indore Development Authority vs. Manoharlal and Others, AIR 2020 (SC) 1496, while passing the impugned order dated 25.2.2021. In the said judgment, the Hon'ble Apex Court held that drawing of 'Panchnama' is an accepted mode of taking possession. When the State has acquired the land and award has been passed, the land vests in the Government, any persons retaining the possession thereafter has to be considered as trespasser. In the light of the law expounded in supra judgment, both these grounds do not sustain.

Ground No.IV

Each case of the land acquisition is to be disposed off on its own facts and circumstances. So the applicants-petitioners cannot take any benefit of the interim order if any passed by the Co-ordinate Bench in writ petition filed by some other land owner with regard to the same Award. So even this ground is unsustainable.

In the light of the above, we do not find any reason to review the order dated 25.2.2021. Consequently, this review application is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

16.03.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No