

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 15488 of 2021

Date of Decision: 13..08.2021

Hira Lal

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. B.K.Bagri, Advocate
for the petitioner(s).

Mr.Samarth Sagar, Additional Advocate General,
Haryana, for respondent No.1 to 4.

Anil Kshetarpal, J.

1. Through this writ petition, the petitioner prays for the following substantive relief:-

“i) to issue a writ in the nature of mandamus directing to the respondents 1 to 4 to pass award and pay compensation to petitioner and perform respondents as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement act, 2013 for their land acquired vide Notification No. 28/GA/18/23 dated 06.09.1971 (Annexure P-1) for the construction of metal road from Asalwas to Jhabwa in Khasra No. 71 and 72, Killa No. 14/12, 19, 22, 23/2(0-14) (1-15), (0-10), (0-2) respectively total 3 Kanal 1 Marla acquired as per Land Acquisition Act, 1894, but no award was passed till date and after commencement Act of 2013, as per Section 24.1(a) the Hon’ble Constitutional Bench in case “Indore Development

Authority Vs. Manohar Lal & Ors.” reported in AIR 2020 (SC) page 1496 already settled law vide judgment dated 06.03.2020 that in case no award is made as on 01.01.2014 the date of commencement of Act of 2013, there is no lapse of proceedings but compensation is to be paid under the provisions of Act of 2013”.

2. It is the case of the petitioner himself that he filed a suit for possession alleging encroachment of the land by the officials of the State, which was decreed on 26.11.2021. The operative part of the decree reads as under:-

“This suit coming on this day for final disposal before me (Rajesh Kumar Bhankhar, Addl. Civil Judge (Sr. Division) Rewari in the presence of Sh. Ram Kishan Adv. For the plaintiff and Sh. S.K.Sharma GP for the defendant No.1 and 2, Sh. Balwan Singh Adv for the defendant No. 28 to 32, defendants No. 3 to 19, 25 and 26 already exparte. It is ordered that the suit of the plaintiff succeeds and partly decreed with costs. The defendants are directed to acquire the land which is encroached by them and pay the compensation to plaintiff and proforma defendants as per Government Rules to the extent of their respective shares alongwith interest @ 6% per annum from the date of filing of the present suit”.

3. Learned counsel representing the petitioner submits that the respondents have assessed the compensation as per the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”), whereas after

01.01.2014, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come into force. He relies upon the judgment passed by the Division Bench in *Jahrudeen and Others v. State of Haryana and Others (Civil Writ Petition No. 8326 of 2013, decided on 08.10.2013)*.

4. From the operative part of the decree, which has been extracted above, it is apparent that the directions have already been issued to the State Government to acquire the land and pay compensation according to the prevalent Government Rules. In essence, the petitioner prays for the implementation of the decree for which the remedy lies before the Executing Court.

5. As regards the judgment passed by the Division Bench in *Jahrudeen's case (supra)*, it would be noted that the Bench, after noticing that the State has failed to complete the acquisition under the 1894 Act, directed the completion of acquisition under the 2013 Act. On a Court question being asked, learned counsel representing the petitioner, admits that before the Division Bench, the petitioners did not already had a similar decree passed by the Court of competent jurisdiction. Hence, the aforesaid judgment is not applicable to the facts of the present case.

6. In view of the aforesaid facts, the present petition is disposed of by relegating the petitioner to avail an alternative remedy.

(Anil Kshetarpal)
Judge

August 13, 2021
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No