

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

CWP-5804-2019

Date of decision : 03.02.2022

Jalbir Singh

.....Petitioner

Versus

State of Haryana and others

....Respondents

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

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

Mr. Ankur Mittal, Addl. Advocate General, Haryana,
Mr. Saurabh Mago, Asst. Advocate General, Haryana.

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

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

1. The instant writ petition has been preferred by the petitioner claiming that the acquisition proceedings qua his land in question initiated vide the notification issued under Section 4 of the 1894 Act on 24.12.2007, the declaration issued under Section 6 of the Act dated 23.12.2008 and the award announced under Section 11 of the 1894 Act dated 23.06.2010 have lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act of 2013') by claiming that he is in physical possession of his land

and compensation for the land acquired has not been paid to him and thus, by pleading that both the contingencies as provided under Section 24 (2) of the Act of 2013 having been fulfilled, prayer has been made for issuance of declaration as such and for quashing of the acquisition proceedings.

2. As noticed, the present writ petition was filed in the year 2019 when the issue of interpretation of the provisions of Section 24 (2) of the Act of 2013 was pending before the Constitution Bench in the Supreme Court and all the matters being filed claiming lapsing of acquisition were kept pending awaiting the decision of the Supreme Court. It is only because of this reason, the instant petition could remain alive till date, otherwise, it was required to be rejected out-rightly owing to the reason that to claim lapsing in terms of the deeming fiction of lapsing provided under Section 24 (2) of the Act of 2013, the first and foremost requirement is that the particular case must qualify the pre-requisite test of lapsing i.e. the window period of 5 years between the announcement of the award and coming into effect of the Act of 2013 i.e. w.e.f. 01.01.2014. Minus which, no one can claim lapsing, as is being claimed in the present petition wherein the lapsing has been sought under Section 24 (2) of the Act of 2013 even though the award was passed on 23.06.2010.

3. Since the petitioner has chosen to invoke the writ jurisdiction of this Court and has claimed lapsing under Section 24 (2) of the Act of 2013, it becomes imperative for us to examine the provisions of Section 24 (2) of the Act of 2013, which enunciates as under:-

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—(1) Notwithstanding anything contained in this Act, in any case

of land acquisition proceedings initiated under the Land Acquisition Act, 1894

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

*(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), **where an award under the said section 11 has been made five years or more prior to the commencement of this Act** but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:*

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

4. Mr. Ankur Mittal, learned Additional Advocate General, Haryana, while referring to the provision of Section 24 (2) of the Act of 2013, has contended that the express language used in Section 24 (2) of the Act of 2013, as reproduced above, reveals that the provisions of this Section shall apply only in those cases, in which, the award by the Land Acquisition Collector was announced 5 years or more prior to the commencement of the Act meaning thereby on or before 31.12.2008. Since in the present case, the award by the Land Acquisition Collector was announced on 23.06.2010, by no stretch of imagination, the present case qualifies to be considered under Section 24 (2) of the Act of 2013.

5. The State has also taken a specific objection to the maintainability of the present petition under Section 24 (2) of the Act of 2013 besides

contending that the possession of the land in question stands taken vide rapat No. 637 dated 23.06.2010 and the land in question has vested in the State for all intents and purposes. In the reply filed, it has also been maintained that as per the office record, the compensation amount for the land in question also stands paid.

6. Having heard the learned Counsel for the State and perusing the pleadings made in the writ petition we have no hesitation to hold that the instant petition is nothing short of abuse of process of the Court so much so the reliance being placed on the provisions of Section 24 (2) of the Act of 2013 to assail the process of acquisition is clearly misconceived. The language of the statute is unambiguously clear that the provision of Section 24 (2) of the Act of 2013 applies to only those cases wherein the land has been acquired under the Land Acquisition Act, 1894, for which, the award under Section 11 of the 1894 Act was announced upto 31.12.2008. Thus, any award passed after 31.12.2008 does not qualify the test laid down in Section 24 (2) of the Act of 2013 and no one being covered by any such award announced after 31.12.2008 is entitled to claim lapsing. Having observed so, the only possible conclusion drawn in the case is of dismissal of the writ petition which accordingly, is being dismissed, being not maintainable and devoid of any merits.

7. There is another limb of the factual matrix as pleaded by the State in its reply that for the first time, the petitioner challenged the process of acquisition by filing CWP No. 19012 of 2010 which was dismissed by this Court on 11.11.2010. Thereafter, the compensation was received by the petitioner vide cheque No. 324556 and 400491 dated 21.02.2012 except the area for which there was dispute and the compensation for the said area stands deposited in the Court. Thereafter, once again the

petitioner approached this Court laying challenge to the acquisition by filing CWP No. 381 of 2016 which was dismissed by this Court vide order dated 17.09.2018. Despite the acquisition proceedings stood completed, the land having been vested, the petitioner yet again approached this Court by filing the instant petition, however, surprisingly, by invoking the provision of Section 24 (2) of the Act of 2013 which in any case was not applicable in the case in hand owing to the reason of the award having been announced on 23.06.2010 and the prerequisite window period of 5 years having not been fulfilled. The conduct shown by the petitioner is nothing short of abuse of process of Court. The case in hand is a classic example of an attempt being made by a litigant to play “hide and seek” with the Court. This kind of conduct is clearly impermissible for a litigant or even as a technique of advocacy. Though by making an attempt to abuse the process of law, the petitioner had made out a case for imposition of exemplary cost while dismissing the petition but we are refraining our hands to take up this issue any further except to record a word of caution for adopting such kind of practice as the truth and only the truth is the foundation of administration of justice and any litigant who attempts to pollute the stream of justice disentitles himself or herself to get any relief from the Courts.

8. As a conspectus of the above discussion especially noticing that the award in this case was announced on 23.06.2010 and as such, it was not available with the petitioner to claim lapsing under Section 24 (2) of the Act of 2013 in view of the express language used in the Section, the present writ petition is not at all maintainable and thus, is liable to be dismissed. The petition is accordingly dismissed.

9. Having dismissed the main writ petition, pending application, if any, also meet the same fate. Status quo, if any, stands vacated.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 03, 2022
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No