

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

CWP-13723-2016

Date of decision:- 14.10.2022

Gyani Ram and ors.

....Petitioners

vs.

State of Haryana and anr.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. R.K. Sharma, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl.A.G. Haryana with
Mr. Saurabh Mago, AAG, Haryana

Mr. Arvind Seth, Advocate
for respondent No. 3.

Ritu Bahri, J. (Oral)

The present petition has been filed seeking quashing of notification dated 03.03.2003 (P-1) and 02.03.2004 (P-2).

However, C.M. No. 12246-CWP-2015 was filed seeking direction to declare that the acquisition proceedings qua petitioner No. 2 is concerned, be treated as lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in the land Acquisition, Rehabilitation and Resettlement Act, 2013, keeping in view the fact that the physical possession is not taken from petitioners and compensation is also not paid to the petitioners by the respondents. Order dated 18.08.2015 has also been appended of Hon'ble the Supreme Court whereby the special leave petitions was disposed of by giving liberty to the petitioner-Naresh Kumar to make

Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 before appropriate forum including the High Court within one month.

However, on 14.01.2016, the present petition was adjourned sine die to await the decision in ***Civil Appeal No. 4835-2015 titled as State of Haryana and another vs. Maharan Partap Charitable Trust*** and the parties were directed to maintain status quo regarding possession till further orders.

In the meantime, C.M. No. 14648-49-CWP-2017 was filed and notice of these applications was issued to learned State counsel and the status quo regarding possession was ordered to be maintained. C.M. No. 14648-CWP-2017 was ordered to be heard along with C.M. No. 12246-CWP-2015. C.M. No. 14649-CWP-2017 was also filed seeking impleadment of legal representative of deceased-petitioner No. 1, who died on 07.11.2010 and the same was allowed on 12.10.2017.

Another C.M. No. 14957-CWP-2021 was filed by HSVP for actual date of hearing keeping in view the judgment of Hon'ble the Supreme Court of India in a case of SLP (C) Nos. 9036-38 of 2016 titled as Indore Development Authority vs. Manohar Lal and others. It has further been averred that the total land which is subject matter of the writ petition has been acquired for development and utilization for residential and commercial Sectors 48-50 at Gurugram vide award No. 23 dated 29.12.2005 and the possession of the land was also taken by the Government vide Rapat No. 217 dated 29.12.2005 (R-1). Further out of the awarded compensation of Rs.12,28,44,392/-, Rs.1,56,68,616 has been paid to the land owners. The

issued on 11.10.2021.

Another C.M. No. 1082-CWP-2022 was filed by the applicant seeking permission to implead the applicant as respondent No. 3 in the present petition and the notice of this application was issued on 09.09.2022.

Heard learned counsel for the parties at length.

The writ petition is liable to be dismissed in terms of the judgment of the Hon'ble Constitution Bench in ***Indore Development Authority v. Manoharlal and others, AIR 2020 SC 1496.***

As regards applicability of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, the same has now been decided by the Hon'ble 5-Judge Bench of the Hon'ble Supreme Court in SLP (C) 9036-9038 of 2016 titled as ***Indore Development Authority v, Manoharlal and ors.*** The concluding paragraph of the said judgment is reproduced herein below for kind consideration:-

“1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of NO 2013 under the Act of 1894 as if it has not been repealed.

3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of

land has not been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if the compensation has been paid, possession has not been taken then there is no lapse.

4. The expression 'paid' in the main part of 24 (2) the Act 2013 does not include deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 the Act 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation in Court does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31 (1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) Act of 2013 is treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking

possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24 (2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

9. *Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, ie., 1.1.2014. It does not revive stale and time barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition'.*

In para 359 of ***Indore Development Authority (Supra)***, it has been observed that once the acquisition qua the land has already been upheld in the earlier round of litigation, the petitioner cannot invoke section 24(2) of the Act of 2013 claiming lapse of acquisition proceedings. The same is reproduced herein below for the kind consideration of this Hon'ble Court:

"359. We are of the considered opinion that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the Act of 2013. The provisions of Section 24 do not invalidate the judgments and orders of the Court, where rights and claims have been lost and negatived. There is no revival of the barred claims by operation of

law. Thus, stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In exceptional cases, when in fact, the payment has not been made, but possession has been taken, the remedy lies elsewhere if the case is not covered by the proviso. It is the Court to consider it independently not under section 24(2) of the Act of 2013.”

Hon'ble the Supreme Court vide judgment dated 06.03.2020 passed in the SLP (C) 9036-9038 of 2016 titled as ***Indore Development Authority v, Manoharlal and ors.*** has categorically observed that the possession taken through mode of Panchnama and Rapat Roznamcha is a valid possession and once the possession is taken, the land vests absolutely with the State and cannot be given back.

Learned State counsel states that in terms of the judgment cited above, the present petition deserves to be dismissed as the acquisition proceedings have attained finality after passing of the award on 29.12.2005. The petitioners at this stage cannot seek release of land being a trespasser.

Keeping in view the above factual position, the present petition is dismissed, as the acquisition proceedings do not lapse as per section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as explained in ***Indore Development Authority (supra).***

(RITU BAHRI)
JUDGE

14.10.2022

G Arora

(NIDHI GUPTA)
JUDGE

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