

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

CWP No. 22186 of 2021

Date of decision:- 14.09.2022

Jaipal Singh

...Petitioner

Vs.

State of Haryana and ors.

...Respondents

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

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

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

Ritu Bahri, J.

Petitioner is seeking setting aside of notification dated 11.02.2011(P-1) issued under Section 4 of the Land Acquisition Act.

Brief facts of the case are that respondent No. 3 issued notification dated 11.02.2011 (P-1) for the acquisition of the land for the public purpose for developments of Sectors 7, 8 and 11 of Tehsil Tauru, District Mewat for residential and commercial purpose. The total land acquired vide this notification was 35108 acres. Petitioner filed his objection dated 02.03.2011 (P-2). Thereafter, respondent No. 3 issued notification under Section 6 of the Land Acquisition Act on 10.02.2012 (P-3). The petitioner then filed CWP No. 17403-2013 challenging the above orders and this Court disposed of the writ petition on 13.08.2013 (P-4) by giving liberty to the petitioners to approach the competent authority to accord necessary sanction to the afore-constructed subject to deposit of statutory charges, if any and if such a permission is accorded, the petitioners shall be at liberty to seek the release of the left out structure in question.

The petitioner then moved a representation dated 25.10.2013 (P-5) before respondent No. 3 seeking release of land but the case of the petitioner was rejected vide letter dated 03.01.2020 (P-13) on the ground that the award had already been announced.

On notice of the petition, a written statement on behalf of respondent Nos. 1 to 3 has been filed and as per this written statement, the land of the petitioner has already been acquired vide award dated 22.10.2013 and thereafter, he filed objections. His objections were heard and his wife appeared on behalf of the petitioner and gave a statement that her house be released from acquisition. The statement is Annexure R-1/T.

Since the constructed house was found to be self inhabited and covered with the release policy of the government and was not affecting any infrastructure, the same was recommended to be released by the Land Acquisition Collector from the acquisition. Accordingly, the residential house measuring 06 marlas was released from the acquisition and the declaration under Section 6 of the Act was issued on 10.02.2012. Thereafter, another representation was filed by the petitioner seeking release of chabutra/havan kund and the same was rejected vide order dated 03.05.2013 (Annexure R-2/T), as the area was not covered under the government policy dated 20.10.2007 and 24.01.2011.

Petitioner also filed replication dated 28.02.2022 stating therein that her wife name is Seema Tanwar and not Babita and thus she never appeared when the objections were heard.

Thereafter, in compliance of order dated 29.04.2022, an affidavit of Amit Kumar, HCS, Land Acquisition Officer, Urban Estates, Faridabad has been filed stating therein that the land in question is very much essential to

affects the site of proposed 24 meter wide road and Group Housing Site No. II, as per latest approved revised cum demarcation plan of Sector 8 Tauru bearing Drawing No. DP (Nuh) 83/2018 dated 03.08.2018, as per development plan of Sector 8 Tauru, District Mewat (R-1).

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 negated. 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**

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 22.10.2013. Further the petitioner had approached this Court after a gap of almost 8 years. The land of the petitioner affects the site of proposed 24 meter wide road and Group Housing Site No. II, as per latest approved revised cum demarcation plan of Sector 8 Tauru bearing Drawing No. DP (Nuh) 83/2018 dated 03.08.2018, as per development plan of Sector 8 Tauru, District Mewat (R-1). The petitioner 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

14.09.2022
G Arora

(NIDHI GUPTA)
JUDGE

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