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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1049-2019

Date of decision:05.09.2023

TAJ MOHAMMAD

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. N.K. Verma, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The prayer made in the instant writ petition is for this Court declaring lapsed the acquisition of the petition lands, thus in terms of the verdict made by the Hon'ble Apex Court in **"Indore Development Authority v/s Manoharlal and Ors."**, reported in **(2020)8 SCC 129**.

2. The learned counsel for the petitioner also argues, that lawful constructions have been raised on the acquired lands, at the instance of the petitioner inasmuch as, the said constructions have been made on the writ lands, in pursuance to a lawful permission through Annexure P-6 becoming granted by the District Town Planner (Enf.). Therefore, he argues that he is entitled to the benefit of the apposite policy, which permits the exemption of the unacquired lands.

However, the above made prayer is rejected.

4. The reason for making the above inference, is drawn, from the factum, that unless evidence surged forth suggesting, that within the ambit of any policy, thus formulated by the State of Haryana, hence permitting exemptions being granted qua those constructions, which were raised prior to the issuance of a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), thereupon the said raised constructions, after the launching of acquisition proceedings, through issuance of a notification under Section 4 of the Act of 1894, rather would become illegal constructions over the acquired lands. The reason for making the above reason(s) is derived from the factum, that on issuance of an acquisition notification, there is complete divestment of right, title and interest in the land looser concerned, over such lands, whereas, there is complete vestment of lawful right, title and, interest over the acquired lands, in the Acquiring Authority concerned.

5. Though there may be evidence existing on record *prima-facie* suggesting, that the said constructions were raised prior to the issuance of a notification issued under Section 4 of the Act of 1894. However, it is revealed in the proof status report, as becomes placed on record by the learned State counsel, that the acquired lands whereon, the said constructions are raised, are an integral component of the infrastructural project for which the writ lands became acquired. The said infrastructures to be raised on the acquired lands, is unfolded, in the brief status report, to be in the shape of a vital link road commencing from NH-22 to Nalagarh Road, Pinjore. Therefore, the legality if any, of the said construction(s) raised by the petitioner on the acquired lands, is completely eclipsed, and/or, is subsumed within the necessity of the lands, whereons it exist, to become

6. Though, the learned counsel for the petitioner has also argued before this Court, that the petitioner is entitled to the benefit of the lapsing provision (supra). However, again in the brief status report, it is revealed that the rapat possession of the acquired lands became assumed, through the drawing of rapat No.930 of 28.03.2008, besides it is also detailed therein, that the determined compensation amount in respect of the acquired lands, has been deposited before the Reference Court, in terms of Section 31 of the Act of 1894. Therefore, when the above detailings in the brief status report filed today before this Court, brings satisfaction qua the respondent, thus qua the relevant twin parameters, as, enshrined in the judgment of Hon'ble Apex Court in **Indore Development Authority's case** (supra).

7. Resultantly, this Court is of the firm view that thereby the petitioner is not entitled to the benefit of the apposite lapsing provision.

8. Hence, the petition is disposed of, but with liberty to the petitioner to move an application for seeking release or disbursement to him, of the compensation amount which is lying deposited before the Authority concerned.

(SURESHWAR THAKUR)
JUDGE

05.09.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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