

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 12378 of 1993 (O&M)

Reserved on : 12.9.2023

Date of Decision: 15.9.2023

Vijay Pal Sharma and others

.....Petitioners

Versus

Union Territory of Chandigarh and others

....Respondents

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

Argued by: Mr. Rajinder Goel, Advocate
for petitioners No. 1 to 4 and 6.

Mr. Amandeep Singh, Advocate
for the LR's of petitioner No. 5.

Mr. Gaurav Mohunta, Standing Counsel
for the respondent-U.T., Chandigarh.

SURESHWAR THAKUR, J.

1. The relief claimed in the instant petition is for declaring invalid the eviction of the petitioners from the acquired lands, and, that too without alternative plots becoming assigned to them. Moreover, the further relief asked for in the instant petition, is for declaring null, and, void the launching of the acquisition proceedings vis-a-vis the disputed lands.

2. During the pendency of the instant petition, CM-4845-2015, became filed by the present petitioners, claiming therein relief for disposing of the instant petition in terms 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'), on the ground that the earlier launched acquisition proceedings becoming lapsed.

3. The petition became contested by the respondent-U.T., through

its instituting a brief synopsis, through its learned counsel.

4. A reading of the said synopsis reveals, that the notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act of 1894') became issued on 9/10.8.1990. The above notification was succeeded by a declaration issued under Section 6 of the Act. The said declaration was made on 8.8.1991. Through award No. 475, drawn on 26.2.1993, compensation amount vis-a-vis the acquired lands, became assessed.

5. Insofar as, the relief relating to the applicability of the mandate of Section 24(2) of the Act of 2013, vis-a-vis the petitioner is concerned, the above claim becomes unhinged, rather from this Court making a decision on 1.8.2023, upon CWP No. 5066 of 2017, thus vis-a-vis similar to the extantly launched acquisition proceedings, whereby a declaration was made, that the benefit of the above lapsing provision, is unavailable from becoming ably resorted by the petitioner in the said writ petition.

6. Therefore, when the facts of the instant case are identical to the facts in the verdict (supra), resultantly with the above apt identity, thus imminently surfacing. Consequently, even in respect of the instant writ petition, this Court proceeds to not declare the earlier launched acquisition proceedings, thus to become lapsed.

7. The declaration of law made in the verdict passed by a Constitutional Bench of the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in 2020(8) SCC 129***, very tritely states, that on lawful acquisitions taking place, thereby there is complete divestment of right, title or interest over the acquired lands in the land losers concerned, rather concomitantly, there is complete vestment of right, title and interest in the acquiring authority over the acquired lands.

Therefore, any retention of possession of the acquired lands by the present

petitioners, is completely unlawful. Resultantly, the petitioners are required to forthwith deliver the possession of the acquired lands, thus to the acquiring authority concerned.

8. Insofar as the relief relating to the land losers becoming rehabilitated, the said statutory relief is not covered within the ambit of the statutory provisions, as, engrafted in the Act of 1894. Moreover, in case the petitioners intended to seek exemption from acquisition of their lands, thereupon they could well have raised objections in respect thereof rather in a protest petition, cast under Section 5-A of the Act of 1894. However, the above available statutory motion, appears to have become abandoned or unavailed by the present petitioners. Therefore, the petitioners are deemed to acquiesce to the acquisition proceedings, thus becoming lawfully launched. In consequence, they are not entitled to challenge the drawing of acquisition proceedings nor they are entitled to claim that a mandamus, be made upon the respondents concerned, to rehabilitate them, rather on the happenings of acquisitions of their lands. The reason is but simple that no statutory mandate exists in the Act of 1894, whereby, the above relief can be granted to the petitioners.

9. Significantly, it is mentioned in the synopsis, furnished before this Court by the learned counsel for the respondent-U.T., that out of the total amount of compensation, as comprised in Rs. 1,86,58,524/-, an amount of Rs. 1,38,93,884/- has been disbursed to the land losers concerned. Therefore, it appears that the present petitioners who may have also received the said determined compensation amount qua them, thereby they are completely estopped to either challenge the lawfully launched acquisition proceedings, and, are also but estopped from claiming any other relief from

this Court.

Final Order

10. In summa, this Court does not find any merit in the instant petition, the same being completely frivolous, thus is required to be dismissed with costs. Therefore, the same is dismissed with costs of Rs. 25,000/- upon each of the petitioners, to be forthwith deposited by the petitioners with the **'Himachal Pradesh Aapada Raahat Kosh-2023'** for mitigating the natural disaster in the State concerned.

11. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

September 15, 2023
Gurpreet

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