

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

(I) CWP-6136-2022 (O&M)
Reserved on: 25.09.2023
Date of Decision: 30.11.2023

PANDIT GULSHAN KAUSHIK

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

(II) COCP-571-2022 (O&M)

PANDIT GULSHAN KAUSHIK

...Petitioner

V/S

SH. SANJEEV KAUSHAL, CHIEF SECRETARY, STATE OF HARYANA
AND OTHERS

...Respondents

(III) CRM-M-12023-2023 (O&M)

PANDIT GULSHAN KAUSHIK

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

(IV) CWP-14757-2022

PANDIT GULSHAN KAUSHIK

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

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

Present : Petitioner in person.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate for HSVP (in all cases).

Ms. Shubha Tandon, forth
Ms. Dhivya Jerath, Advocate
for the petitioner (in COCP-571-2022)

Mr. Prateek Mahajan, Advocate for
Mr. Ashish Gupta, Advocate
for respondents No.2 to 8 (in COCP-571-2022)

SURESHWAR THAKUR, J.

1. Since CWP-6136-2022 and CWP-14757-2022 arose from a common notification, therefore both the writ petitions are liable to be decided through a common order. Moreover, since COCP-571-2022 and CRM-M-12023-2023 also become aroused from certain purported violations being made at the instance of the contemnors concerned, vis-a-vis orders rendered by this Court, thus during the pendency of the writ petition (supra). Resultantly, the said COCP-571-2022 and CRM-M-12023-2023 are also liable to be decided along with the writ petitions (supra).

2. Nonetheless it is necessary to cull out the prayers as well as the facts as carried in each of the writ petitions.

3. The prayers made in CWP-6136-2022 are as under:

(a) *To quash the award dated 16.03.1993 as status quo is operating qua the land in question since 22.05.1992.*

(b) *To restore the land in question as the status quo has been imposed and the petitioner is owner of 1/32nd share or 729.89 sq. yards.*

(c) *To direct the respondent to award the compensation to the petitioner for his share as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013.*

4. The prayers made in CWP-14757-2022 are as under:

- (a) To cancel all conveyance deeds executed in favour of third parties for the land in question.
- (b) To issue notice to the respondent as well as the plot owners since status quo order is still in operation and the writ petitions are pending before this Hon'ble Court.

The facts relating to filing of CWP-6130-1992 by the father of the present petitioner along with other persons

a) Through an order made on 22.05.1992, this Court was pleased to make an order of status quo being maintained in respect of the acquired lands. However, in the said writ petition the beneficiary department inasmuch as, the HSVP remained unimpleaded. The said writ petition was dismissed on 18.01.2011, by this Court. On 11.05.2011, rapat possession of the disputed lands became assumed through rapat No.523 of 11.05.2011, as there was no stay against the launching of further acquisition proceedings under the Land Acquisition Act, 1894 (hereinafter referred to as "the Act of 1894").

b) Writ petitioners No.4, 5 and 6 in CWP-6130-1992 instituted SLP(C) No.1591 of 2012, (converted to CA-5128-2015), whereas, the LRs of petitioner No.2 instituted separate SLP(C) No.3363 of 2012 (converted to CA-5147-2015), before the Hon'ble Apex Court. In the SLP(s) (supra), the Hon'ble Apex Court passed an order of status quo vis-a-vis possession. On 09.07.2015, the lis was remanded to this Court. Thereafter, the petitioner filed contempt petition bearing No.776 of 2018 before the Hon'ble Apex Court, alleging therein, the ill happening(s) of violation of order of status quo, as became passed, on 09.01.2012, thus on the ground, which became also

pleaded in the contempt petition bearing No.COCP-571-2022, thus subjudice before this Court.

c) For ready reference the relevant portion of the observations recorded therein are required to be extracted hereinafter, and, are thus extracted hereinafter.

“In that context, it has been observed that insofar as the petitioner before us is concerned, the compensation assessable as for the highest amount would be Rs.4,78,228/-. We may note that the Court did observe subsequently whether a better compensation could be paid but instructions of the respondent is that whatever is best is being done and the rest, if this Court was to give some higher compensation, they leave it to the Court.

The crux of the controversy is that the petitioner claims that there is violation of the High Court’s order of stay in taking possession and thus, no legal possession was taken and he is entitled to compensation under the new Act of 2013. Thus, it is not possible to find a median solution other than to note that if the petitioner is desirous of accepting the compensation as offered by the respondent State at the highest value of Rs.4,78,228/-, the petitioner may communicate that offer to the respondent authorities within a period of 15 days from today and on such communication, the amount may be remitted to him within a period of three weeks thereafter.

If the petitioner seeks to contend that the provisions of the new Act must apply, on account of there being some violation of the orders granted by the High Court, then it is for the petitioner to work out his remedies in the petition pending before the High Court in that behalf. These aspects cannot anymore be determined in these contempt proceedings which by very nature are confined to an aspect of willful disobedience of the order of this Court.

We accordingly, dispose of the Contempt Petition.”

d) Though the State of Haryana had espoused before the Hon'ble Apex Court, that the compensation amount assessable vis-a-vis, the acquired lands would be, in a sum of Rs.4,78,228/-. Further though it, is also observed that yet though the Hon'ble Apex Court did make observations whether a better compensation could be paid, but since the learned counsel representing the State of Haryana before the Hon'ble Apex Court, made an intimation thereof, that an amount (supra), is the best payable to the writ petitioner, but yet reserving discretion by the Hon'ble Apex Court to assign some higher compensation than the above assessed sum of compensation.

e) Moreover, it was also detailed therein, that in case there is any violation of any order staying the dispossession of the petitioner vis-a-vis the disputed lands, thereupon if no valid possession became assumed thereof, at the instance of HUDA, but if the petitioner is entitled to compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the "Act of 2013"), thereupon liberty in respect of the above became reserved to the petitioner. Resultantly, the Hon'ble Apex Court closed the controversy with respect to the petitioner becoming entitled to compensation under the Act of 1894.

f) Nonetheless, it was yet concluded that if there is some palpable violation of the orders granted by the High Court, thereupon it is for the petitioner to work out his remedies in the petition subjudice before the High Court. Consequently, the contempt petition filed before the Hon'ble Apex Court was closed.

g) Though, the Hon'ble Apex Court did as stated (supra), after closing the contempt petition subjudice before it, reserved liberty

to the petitioner to continue with the contempt petition, which appears to be stated therebefore to be subjudice before this Court. Nonetheless, the said reserved liberty became rested upon, the plank of the apposite contempt petition being also subjudice before this Court. However, the said submission appears to be a mis-projected submission before the Hon'ble Apex Court, as at the time of closure of the above contempt proceedings by the Hon'ble Apex Court, no contempt petition was subjudice before this Court, rather contempt petition bearing No.776 of 2018, became instituted on 21.03.2022, thus subsequent to the closure of the contempt proceedings by the Hon'ble Apex Court.

h) Be that as it may, since the averments in the contempt petition filed before the Hon'ble Apex Court, and, which became closed through order (supra), are similar to the one, as are made in the present writ petitions bearing No.CWP-6136-2022 and CWP-14757-2022, besides as made in the contempt petition filed before this Court, but subsequent to the closure of contempt petition bearing No.776 of 2018, by the Hon'ble Apex Court.

i) Consequently, when in the contempt petition with a similar averments to the averments made in the contempt petition bearing No.776 of 2018 which rather became closed by the Hon'ble Apex Court, besides when the liberty reserved to the petitioner, to yet agitate the contempt petition, thus becomes rested upon a mis-projection being made before the Hon'ble Apex Court, that the apposite contempt petition was subjudice, before this Court, whereas, the same was evidently not subjudice before this Court at the time of closure of contempt petition (supra), by the Hon'ble Apex Court, rather became filed subsequent to the closure of the contempt proceedings before the

Hon'ble Apex Court. Therefore, reiteratedly the above statement, was a mis-statement before the Hon'ble Apex Court. In consequence, the subsequently instituted contempt petition with averments similar to the ones, as carried in the contempt petition, which became closed by the Hon'ble Court, but obviously does not require any further action being drawn thereons by this Court.

CRM-M-12023-2023

a) A criminal miscellaneous petition bearing No.CRM-M-12023-2023 was also filed before this Court. However, since this Court for reasons assigned hereinabove, has inferred, that the acquired lands were acquired under lawfully launched acquisition proceedings, under the Act of 1894. Therefore, the prayer made in CRM-M-12023-2023 for registration of an FIR against the errant officers concerned, as arising from assumption of illegal possession, and/or, as arising from thereafter untenable allotments of plots, being made to the allottees concerned, does also require to be dismissed. Even if there was any stay against dispossession of the petitioner from the disputed lands, thereupon unless there was restraint orders passed by this Court or by the Hon'ble Apex Court, against the launching of further acquisition proceedings in terms of the Act of 1894, thus there could not be any validly made interdiction against the Acquiring Authority concerned, to assume rapat possession through rapat No.523 of 11.05.2011, thus over the acquired lands or to determine compensation under the Act of 1894. However, when evidently there was no stay against the further launching of acquisition proceedings under Section 4 of the Act of 1894. Therefore, when this Court has hereinabove concluded, that not only valid rapat possession became assumed by the

Acquiring Authority concerned, besides has concluded that compensation as became determined under the Act of 1894, does become deposited in terms of Section 31 of the Act of 1894, before the learned Collector concerned, for thereafter the same becoming amenable for being released to the land loser concerned. Therefore, the above drawn inferences do arouse a conclusion that thereby the mandate incorporated in **“Indore Development Authority v/s Manoharlal and Ors.”, reported in (2020)8 SCC 129**, by the Constitution Bench of the Hon’ble Apex Court, does require its becoming applied vis-a-vis the Acquiring Authority.

5. Hence, both the apposite petitions i.e. **COCP-571-2022** and **CRM-M-12023-2023** are dismissed accordingly.

CWP-6136-2022 and CWP-14757-2022

6. Predominantly also when the instant petitions are on similar cause(s) of action, besides claim similar reliefs as canvassed in CWP-6130-1992, whereons, there was an order of remand, thus by the Hon’ble Apex Court. Resultantly, when through an order made in CWP-6130-1992, this Court has declined relief to the petitioner.

7. In consequence, given the writ petition No.6130-1992 being between parties similar to the parties in the instant writ petitions. Therefore, the instant writ petition(s) are mis-constituted, as they are barred by the principle of res subjudice as encapsulated under Section 10 of the CPC, provisions whereof are extracted hereinafter.

“10. Stay of suit- No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is

pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.”

8. Hence, both the apposite petitions i.e. CWP-6136-2022 and CWP-14757-2022 are also dismissed accordingly.

9. All pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

30.11.2023
Ithlesh

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No