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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : July 24, 2023

VED SINGH

-Petitioner

V/S

STATE OF HARYANA AND OTHERS

-Respondents

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

Present : Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate
Ms. Kushaldeep K. Manchanda, Advocate &
Mr. Shivam Garg, Advocate
for the respondent No.3-HSVP.

KULDEEP TIWARI, J.

1. The petitioner has, through the instant writ petition, sought quashing of the land acquisition notifications dated 12.05.1995 and 10.05.1996, issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), on the ground, that the acquired lands have not been put to any efficacious use, despite elapse of more than 25 years.

2. As a matter of fact, the petitioner was owner of the petition lands, situated at Village Bahadurgarh, District Jhajjar, which were put to acquisition, through issuance of an acquisition notice, under Section 4 of the Act of 1894, on 12.05.1995, by the State of Haryana, through

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Urban Estate Department, for the purpose of development, utilization for residential, industrial and commercial purposes, for pockets of Sectors 9 and 9-A in Bahadurgarh.

3. Aggrieved from the acquisition notice (supra), the petitioner filed objections under Section 5-A of the Act of 1894. However, in continuance of the acquisition proceedings, the department concerned issued another acquisition notice under Section 6 of the Act of 1894, on 10.05.1996, which was subsequently followed by an award under Section 11 of the ibid Act being announced on 24.04.1998.

4. The learned counsel for the petitioner has vociferously argued that since the acquired lands have not been put to any efficacious use, vis-a-vis, any developmental work, even after 25 years of its acquisition, therefore by virtue of Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017, the impugned acquisition notifications (supra) are liable to be set aside and the petition lands are liable to be de-notified.

5. Per contra, the learned State counsel has filed a status report by way of an affidavit of the Land Acquisition Collector concerned, perusal whereof reveals, that acquisition proceedings have already been finalized and an award under Section 11 of the ibid Act has also been announced way back on 24.04.1998. It make further revelations that the compensation amount of original award to the tune of Rs.10,44,259/- has also been received by the petitioner on

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12.05.1998. However, to seek enhancement of the compensation amount (supra), the petitioner approached the learned Reference Court concerned by instituting a petition under Section 18 of the Act of 1894 and thereafter, the petitioner contested the matter qua enhancement of compensation amount upto the Hon'ble Supreme Court. The compensation amount of Rs.2,03,088/-, Rs.2,03,088/- and Rs.37,740/-, as enhanced by the learned Reference Court concerned, was disbursed in the bank account of the petitioner respectively on 04.02.2006, 23.01.2009 and 16.06.2009. The compensation amount of Rs.1,72,116/-, as enhanced by this Court, was disbursed in the bank account of the petitioner on 10.02.2010. Finally, the compensation amount of Rs.1,38,68,356/-, as enhanced by the Hon'ble Supreme Court, was disbursed in the bank account of the petitioner on 13.03.2018.

6. The learned counsels appearing for the respondents have specifically submitted that the petition lands affect the planning of housing board, 10 marla plots = 10, 8 marla plots= 18, 6 marla plots = 3, 2 numbers of 10 meter wide road and 18 meters wide road.

7. We have considered the arguments raised by the learned counsel for the petitioner, however we are unable to accept the same for the hereinafter given reasons.

8. It is indisputable that the acquisition proceedings, qua the petition lands, have attained finality upon an award being passed on 24.04.1998. It is also not under dispute that the possession of the petition lands was admittedly assumed by the department concerned

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through recording of a Rapat Roznamcha on 24.04.1998. Thus, the acquired lands duly vested with the respondent department HSVP (erstwhile Haryana Urban Development Authority).

9. Furthermore, the issue, as involved in the present writ petition, has already been dealt by the Hon'ble Supreme Court in case titled ***"Indore Development Authority V/s Manoharlal" 2020 AIR (Supreme Court) 1496***, wherein it has been held that the provisions of lapse, as engrafted under Section 101 of the Act of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013, are not applicable to the acquisitions made under the Act of 1894. The relevant observations are reproduced as under:-

"360. It was submitted that Section 101 provides for return of unutilized land under the Act of 2013. Section 101 provides that in case land is not utilized for five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government. Section 101 reads as under:

"101. Return of unutilized land.- When any land, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Explanation. For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government-owned vacant, abandoned, unutilized

acquired lands and tax-delinquent properties into productive use."

361. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilized land. Section 101 cannot be said to be applicable to an acquisition made under the Act of 1894. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with respect to all lands acquired under the Act of 2013 as the expression used in the opening part is "When any land, acquired under this Act remains unutilized". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions Section 101 cannot be applied to the acquisitions made under the Act of 1894. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the Act of 2013. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilized under Section 24(2)."

10. Since the petition land was, indisputably, acquired under the Act of 1894, therefore the provisions of lapse, as engrafted under Section 101 of the Act of 2013, are not applicable thereto. In view of the above observations, the claim, as raised in the present petition, is therefore rejected.

11. Furthermore, the learned State counsel has apprised this Court that the notifications, under challenge, have already been assailed before this Court, at the instance of some other persons concerned, by filing CWP-500-2023, however the said writ petition stands dismissed, vide order dated 19.05.2023. The dismissal of the petition (supra) was founded, inter alia, on the ground of non-applicability of the provisions of Section 101 of the Act of 2013, to the acquisitions made under the Act

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of 1894.

12. We have perused the order (supra), as made on the writ petition (supra), by a Coordinate Bench of this Court, which elucidates that not only the writ petition (supra) was dismissed on the above score, but also the relief for the matter being referred to the State Government for considering de-notification of the petition lands, under Section 101-A of the Act of 2013, was also declined. The relevant paragraphs of the order (supra), are extracted hereinafter.

“13. Having heard learned counsel for the parties, we find no ground to interfere in this writ petition. Learned counsel for the petitioners is unable to deny that petitioners do not have a vested right to seek denotification of their land, acquisition proceedings qua which have attained finality with passing of award on 24.04.1998. Gainful reference, at this stage, can be made to the judgment of Hon’ble the Supreme Court in SLP (Civil) No. 16421 of 2021 titled Ram Swaroop (Dead) through LRs and another vs. State of Haryana and others, decided on 15.11.2021, wherein while taking note of its earlier judgment in Raghbir Singh and others versus State of Haryana 2021 (3) RCR (Civil) 533, it has been held as under:-

“8. Section 101-A of 2013 Act (as inserted in State of Haryana) gives liberty to the State Government to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the landowner due to such acquisition. Section 101-A is an enabling provision with the State Government to denotify the land vested with the State if it finds that any public purpose for which land was acquired under the Land Acquisition Act, 1894 becomes unviable or non-essential. In other words, the power is with the State Government on its satisfaction that the land acquired has become unviable or non-essential. No

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landowner has a vested right to assert that the land acquired has become unviable or non-essential mainly because the landowner continued to be in possession by virtue of an interim order passed by the High Court.

14. *It is categorically averred in the short reply filed by way of affidavit of the Land Acquisition Collector, Urban Estate Department, Rohtak that the land in question is an essential part of development to be undertaken by the beneficiary department and that there is no question of denotification of the land in question which was acquired for utilization of land as residential, industrial and commercial purposes for pockets of Sectors 9 and 9A, Bahadurgarh. Learned counsel is unable to point out anything to the contrary.*

15. *In view of the facts and circumstances, including the categorical stand of the State, we find no ground or justification to issue a direction to the competent authority to consider and decide the representation, (Annexure P6) submitted by the petitioners as has been prayed for in the alternate. Once it is admitted that petitioners do not have a vested right, they cannot seek such direction without making out a prima facie case in their favour. As discussed in the foregoing paras no such case is made out in their favour."*

13. In view of the above observations, we do not find any merit in the instant writ petition and the same is hereby dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

July 24, 2023
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No