

106

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)CWP-14809-2018 (O&M)
Date of decision:06.12.2023

PREM SINGH...Petitioner

Versus

UT OF CHANDIGARH AND ORS. ...Respondents

(2)CWP-17068-2018 (O&M)

GURDEV SINGH AND ANOTHER...Petitioners

Versus

UT OF CHANDIGARH AND ORS. ...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rajiv Kataria, Advocate with
Mr. Aman Joon, Advocate
for the petitioner (in both cases).

Mr. Anil Mehta, Senior Standing Counsel
for respondent-U.T. Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

1. Since both the writ petitions arise from a common notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), besides when they also appertain to common theretos award being passed, therefore, both the writ petitions are amenable for being decided through a common verdict.

2. The challenge made in the writ petitions, is to the validity, of the issuance of notification under Section 4 dated 28.06.1990, respectively carried in Annexure P-3 in CWP-14809-2018, and in Annexure P-2 in CWP-17068-2018; to the notification issued under Section 6 dated 24.06.1991, respectively carried in Annexure P-4, in CWP-14809-2018, and in Annexure P-3 in CWP-17068-2018, besides to the validity of the making of an award dated 21.06.1993, respectively carried in Annexure P-5 in CWP-14809-2018, and, in Annexure P-4 in CWP-17068-2018.

3. The writ petitioners had earlier filed CWP-6464-1995. The ground projected for a challenge being made to the said notifications (supra), became rested on the plank, that certain illegalities were occurring in the award, as became made in pursuance thereof.

4. When the said writ petition became listed before this Court, on 22.04.2004, thereupon this Court proceeded to make a declining order thereons, relevant portion whereof becomes extracted hereinafter.

“As opposed to be above, there was the original Award itself which bears the signatures of the Land Acquisition Collector and also bears the date of announcement of the Award as June 21, 1993. The above contention is supported by the written statement of the Land Acquisition Collector. There is no reason to doubt that the Award had not been made and signed on June 21, 1993.”

5. A reading of the above extracted operative portion of the verdict recorded by this Court on writ petition (supra), reveals that the challenge made in the writ petition (supra), did not succeed. Consequently, the writ petition (supra) became dismissed.

6. The dismissal of the said writ petition by this Court, on 22.04.2004, resulted in the aggrieved therefrom, filing Civil Appeal No.4766 of 2007 before the Hon'ble Apex Court. On the said civil appeal, the Hon'ble Apex Court after dismissing the said civil appeal, thus also assigned liberty to the appellants therein, to avail appropriate remedy before the appropriate forum insofar as, the relief claimed, rather in an application filed therebefore, thus relating to the appellants claiming the endowment of privilege qua them, vis-a-vis, the provisions carried in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the "Act of 2013").

7. It is on the anvil of the above reserved liberty, vis-a-vis, the present petitioners, that the instant petitions have been filed, before this Court. Necessarily the relief claimed therein, is that, the mandate of the Hon'ble Apex Court, as declared in judgment rendered in case titled as **"Indore Development Authority v/s Manoharlal and Ors.", reported in (2020)8 SCC 129,** rather has been breached by the Acquiring Authority concerned.

8. Learned counsel for the petitioners argues, that the twin or the duo of conditions as set forth therein, in respect whereof affirmative discharging evidence, thus was required to be adduced by the Acquiring Authority concerned, rather has remains unadduced, inasmuch as;

I) The acquiring Authority concerned, through a rapat assuming possession of the acquired lands, and, the said assumption of possession over the acquired lands, through a

rapat being drawn, thus taking place or happening before the coming into force of the Act of 2013.

ii) That the determination of compensation as made through an award passed in terms of Section 11 of the Act of 1894, thus becoming deposited in terms of Section 31 of the Act of 1894 rather before the learned Collector concerned, for thereby the same becoming available for becoming disbursed to the land-losers concerned.

9. For determining whether the Acquiring Authority concerned, has adduced cogent discharging evidence, for thereby this Court, concluding that the above claimed relief, is not required to be assigned to the present petitioners, it is deemed relevant to refer to the reply on affidavit, as becomes furnished to the writ petitions, by the respondent concerned.

10. A reading of the reply furnished, on affidavit to the writ petitions by the Acquiring Authority concerned, reveals that the rapat possession, whereby possession of the acquired lands became assumed, rather was drawn in the year 2022. Moreover, a reading of the reply on affidavit further discloses, that the compensation, as became determined under the Act of 1894, through an award dated 21.06.1993, respectively carried in Annexure P-5 in CWP-14809-2018, and in Annexure P-4 in CWP-17068-2018, rather not being deposited in terms of Section 31 of the Act of 1894, thus prior to the coming into force of the Act of 2013, rather it becoming deposited before the learned Collector concerned, on 21.08.2014. Therefore, the date of deposit of the compensation amount assessed under the Act of 1894, is but subsequent to the coming into

force of the Act of 2013, besides the date of drawing of rapat possession is also prior to the coming into force of the Act of 2013.

11. The consequence of the above, is that, the claim raised in the writ petition, qua the benefit of the lapsing provisions, as encapsulated in Section 24(2) of the Act of 2013, thus is required to be assigned to the land-losers concerned.

12. In consequence, this Court finds merit in the instant petitions, and, both the petitions are accordingly allowed. Nonetheless, if the acquired lands are required for the relevant public purpose, and, are also subjected to user for the relevant public purpose, thereupon it is open to the Acquiring Authority concerned, to draw proceedings for acquisition of the writ lands, through invoking the relevant provisions of the Act of 2013.

13. Pending miscellaneous application(s), if any, stand(s), disposed of.

14. A photocopy of this order be placed on the file of other connected case.

(SURESHWAR THAKUR)
JUDGE

06.12.2023

Ithlesh

(SUDEEPTI SHARMA)
JUDGE

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