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

CWP-15879-2023

Date of decision:26.07.2023

URMILA DEVI

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana
for respondents No.1 and 2.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for respondents No.3 to 5-HSVP.

SURESHWAR THAKUR, J. (ORAL)

1. It is unfolded by scribed instructions which have been placed on record today, before this Court by the learned State counsel, that in respect of the petition lands, the notification under Section 4 of the Land Acquisition Act, 1894, (hereinafter to be referred as “the Act of 1894”) became drawn and issued, on 21.03.2006. Moreover, it is also echoed therein, that a notification under Section 6 of the Act of 1894, became issued, on 20.03.2007. Moreover, it is also spoken therein, that an award in pursuance to the issuance(s) of the notifications (supra), became drawn by the Competent Authority concerned. The said award bears Award No.4, and, became made on 18.08.2008. The effect of the above

revelations, as are carried in the scribed instructions as are placed today, before this Court by the learned State counsel, are that, thereby the proceedings for acquiring the writ lands, became commenced under the Act of 1894, and, also became terminated thereunder, but obviously before coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as “the Act of 2013”).

2. A thorough reading of the averments, as, raised in the writ petition reveal(s), that the petitioner(s) do not claim the benefit qua the earlier launched proceedings under the Act of 1894 becoming lapsed, through invocation of the mandate carried in Section 24(2) of the Act of 2013. Therefore, in the wake of the above, this Court does not deem it fit, and, appropriate to either delve into or to make any adjudication in respect thereof, especially given the same neither becoming raised, nor relief in respect thereof becoming claimed.

3. Be that as it may, the petitioner asks for relief but founded on Section 101 of the Act of 2013. Therefore, it is deemed imperative to analyse the mandate of Section 101, as carried in the Act of 2013, provisions whereof are extracted hereinafter.

“101. Return of unutilised land.— When any land acquired under this Act remains unutilised 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.”

4. A reading of the above extracted provisions of Section 101, as carried in the Act of 2013, thus reveals, that the twin primary ingredients for the counsel succeeding before this Court, for the benefit thereof becoming granted

to him are:

I) The right to claim the benefit of the said provision becoming available only when acquisition proceedings are drawn under the Act, of 2013.

II) It becoming proven that despite acquisition proceedings, as became drawn, and/or became concluded under the Act of 2013 yet the acquired lands becoming unutilized for a period of 5 years, from the date of taking of assumption of possession over such acquired lands, thus by the Competent Authority concerned.

5. If so, since the acquisition proceedings were not drawn under the Act of 2013, whereas, they were drawn under the Act of 1894, thereby the imperative statutory necessities (supra), but only carried in the Act of 2013, when thus evidently remain unaccomplished. Consequently, the above espoused relief in the writ petition cannot be granted to the petitioner.

6. Be that as it may, when the above alluded unfoldings, as occur in the scribed instructions, as, placed on record today, before this Court, by the learned State counsel, thus speak, that as a matter of fact the earlier launched acquisition proceedings, thus were under the Act of 1894, besides speak, that they became completely terminated, through an award being made in the year 2008. Therefore, when but obviously thereby complete vestment of right, title and interest over the acquired lands, rather in the Acquiring Authority, but obviously did then happen, and, concomitantly thereby complete divestment of right, title and interest over the acquired lands in the petitioner, thus thereby did also then happen.

7. In consequence, irrespective of unutilization of the petition lands, as of date, conspicuously since the acquisition proceedings were concluded under the Act of 1894, wherein, there is no provision that on unutilization of lands for a period of 5 years from the date of taking of possession thereof, thus

the landowners can claim return of the acquired lands to them, from the Acquiring Authority. Contrarily, when the said provisions only occur in the above statutory provisions contained under the Act of 2013, whereas, ingredients thereof remain evidently unaccomplished.

8. Therefore, also this Court does not deem it fit, and, appropriate to grant the statutory benefit, as encapsulated in Section 101 of the Act of 2013 thus to the petitioner. For all the above reasons, this Court is not at all inclined to quash the acquisition proceedings launched, and, concluded under the Act of 1894. Hence, the instant petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

26.07.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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