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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112 (I) CWP-16161-2023
Date of Decision : July 28, 2023

BHIM SINGH YADAV AND ANR. -Petitioners

V/S

STATE OF HARYANA AND ORS. -Respondents

(II) CWP-16174-2023

RAMESHWAR AND ORS. -Petitioners

V/S

STATE OF HARYANA AND ORS. -Respondents

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

Present : Ms. Radhika Suri, Sr. Advocate with
Mr. Manpreet Singh Kanda, Advocate
for the petitioners (in both writ petitions).

SURESHWAR THAKUR, J. (ORAL)

1. Notice of motion.
2. Mr. Ankur Mittal, Addl. A.G., Haryana with Mr. Saurabh Mago, DAG, Haryana, waive service of notice on behalf of all the respondents.
3. Since both these writ petitions arise from common thereto notifications for acquisition, as became issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), notifications whereof become respectively assigned Annexures P-1 and P-2, in both these writ petitions, thereby both these writ petitions are amenable for being decided through a common verdict.
4. The learned senior counsel appearing for the petitioners/ landowners

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concerned has vehemently argued before this Court, that since in the verdict, as made by the Hon'ble Apex Court, in the case titled as "**Indore Development Authority v/s Manoharlal and Ors.**", **reported in (2020)8 SCC 129**, there occurs a trite expostulation of law thus in the relevant paragraph thereof, paragraph whereof becomes extracted hereinafter, that for debarring the acquiring authority, or, for enabling the landowners concerned, from claiming the benefit of the lapsing provision, as comprised 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'), there is an imperative statutory discharging requirement, upon, the State qua two ingredients:- (a) the necessity of tendering of compensation for its becoming claimed for being released to the landowners concerned; (b) the assumption of possession being evidently assumed by the acquiring authority, thus through drawing of a Rapat Roznamcha.

"1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words,

in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

4. *The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.*

5. *In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.*

6. *The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

7. *The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed*

on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

9. *Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”*

3. However, the learned senior counsel appearing for the petitioners has argued, that the above statutory conditions are completely unaccomplished, therefore, she argues that the petitioners are entitled to well claim, that thereby their lands be declared to become lapsed from acquisition.

4. However, in view of the learned State counsel placing on record the relevant details, inasmuch as Rapat No.10 dated 06.09.2000, whereby possession(s) of the entire parcels of land, as involved in both these writ petitions, thus become assumed by the acquiring authority. Moreover, since it is also spelt out, in the brief status report, as placed on record, by the learned State counsel, that in terms thereof, the compensation amount, comprised in a sum of

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Rs.100 crores, has also been tendered on 05.09.2000, before the Land Acquisition Collector concerned, for thereby its becoming claimed to be released therefrom, by the landowners concerned.

5. In consequence, since the twin statutory ingredients (supra) are completely established, therefore the writ petitioners'/landowners' concerned claim, for their being entitled to the benefit of the apposite lapsing statutory provision cannot be granted. Consequently, this Court finds no merit in the writ petitions and the same are accordingly dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

July 28, 2023
devinder

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