

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**CWP No. 300 of 2016****Reserved on: 20.07.2023****Date of decision : 01.08.2023**

JAI SINGH

-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. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. The petitioner, through the instant writ petition, claims relief for the quashing of the impugned notifications respectively issued on 01.04.1992 and 29.03.1993, and, to which respectively Annexures P-1 and P-2 are assigned.

2. The learned counsel for the petitioner claims relief, that the acquisition proceedings, as became drawn in respect of the petitioner's lands, be thus declared to become lapsed. In making the above submission, the learned counsel for the petitioner rests it, upon the judgment, as made by the Hon'ble Apex Court in case titled "*Indore Development Authority v/s Manoharlal and Ors.*", reported in (2020)8 SCC 129.

3. Therefore, it becomes but imperative to expound the expositions of law, as made by the Constitutional Bench of the Hon'ble Apex Court, in the

case of **Indore Development Authority (supra)**. In the judgment (supra), 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 the 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.”*

4. Now, for testing, whether the State of Haryana has adduced the apposite discharging evidence, in respect of accomplishment of the above referred twin statutory ingredients, inasmuch as, qua:- (a) it tendering the compensation amount before the authority concerned, for its becoming claimed for being released to the landowners concerned; (b) whether the respondent concerned has evidently assumed possession of the acquired lands, thus through the drawing of a Rapat Roznamcha. Therefore, it is deemed appropriate to refer to the reply, as becomes furnished to the writ petition by the respondents.

5. A reading of the reply (supra) discloses, that the land comprised in Khasra No.109//17 became released from acquisition, thus in compliance of a verdict made by this Court, upon, CWP-3419-1987. However, it is also contended in the reply (supra), that Khasra No.109//17, which adjoins Khasra No. 109//18/1, became purchased by the present petitioner from the vendors concerned, but the said purchase occurred rather post the issuance of the notifications (supra). Therefore, but obviously, since on issuance of notifications (supra), there was complete vestment of right, title and interest in the acquired lands, in the acquiring authority, and, there was a concomitant divestment of any right, title and interest over such lands, by the present petitioner. Resultantly, the present petitioner has no locus standi to claim, that

the petition lands be released from acquisition. In other words, the petitioner has no locus standi to maintain the instant writ petition, thus for seeking release of the petition lands from acquisition.

6. Be that as it may, it is also clearly detailed in the reply (supra), that the apposite discharging evidence, thus in respect of the twin statutory ingredients (supra), becomes embedded in evident possession of the acquired lands becoming assumed through Rapat No.121 of 31.03.1988. Furthermore, it has also been detailed therein, that the compensation amount comprised in a sum of Rs.71,51,344.00 became tendered, and, about 95% of the above determined compensation amount, thus becoming also disbursed, to the landowners concerned, whereas, the remaining 5% has been deposited for its becoming available for being claimed to become released to the landowners concerned.

7. Therefore, when even otherwise, there is evident completest satisfaction of the twin statutory ingredients (supra), at the instance of the State of Haryana, whereby, the petitioner, who otherwise also has no locus standi, for reason (supra), to maintain the writ petition. Resultantly the instant petition is liable to be dismissed, nor the petitioner can claim the benefit of the apposite lapsing statutory provision(s), as enclosed in Section 24(2) of the Act of 2013).

8. Though the writ petitioner also claims, that on anvil of Section 101 of the Act of 2013, the petition lands are unviable and unessential for the relevant public purpose. However, since in view of the layout plan, appended as Annexure R-2 to the reply (supra), it is but evident, that the writ lands are both essential and viable for accomplishing the relevant public purpose, thereby the benefit of Section 101 of the Act of 2013 also cannot be claimed by the petitioner, who

otherwise, for reason (supra), has no locus standi to maintain the instant writ petition.

9. In aftermath, this Court does not find any merit in the instant writ petition and the same is accordingly dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

01.08.2023
devinder

Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No