

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 25108 of 2017
Reserved on: 05.10.2023
Date of decision : 09.10.2023

RATTAN LAL AND OTHERS

-PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

-RESPONDENTS

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

Present : Mr. Ishnoor Singh, Advocate and
Mr. Vikram Singh, Advocate
for the petitioners No.1 and 2.

Mr. Sunil Chadha, Senior Advocate with
Mr. Akshay Chadha, Advocate and
Mr. Raghav Chadha, Advocate
for the petitioners No.3 and 4.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate
Mr. Shivam Garg, Advocate and
Mr. Jugam Arora, Advocate
for the respondent(s)-HSVP.

SURESHWAR THAKUR, J.

1. The petitioners, through the instant writ petition, claim relief for the quashing of the impugned notifications respectively issued on 24.08.2000 and 22.08.2001, and, to which respectively Annexures P-1 and P-2 are assigned. The notifications (supra) became issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894').

2. The above launched acquisition proceedings, vis-a-vis the petition lands, were for facilitating a public purpose, namely, for the development and utilization of land for residential, commercial and institutional area Sector 57, Gurugram.

3. The above prayer(s) becomes rested upon the mandate 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'), whereby, on dis-affirmative satiations becoming meted by the acquiring authority qua the statutory parameters embodied therein, thus the landlooser(s) concerned, become entitled to receive a declaration, that the earlier launched acquisition proceedings under the Act of 1894, rather being pronounced to become lapsed.

FACTUAL BACKGROUND

4. Before proceeding to determine the legal tenacity of the above claim, as made in the instant writ petition, it is deemed pertinent to allude to the factual background of the present case.

5. The petitioners had earlier instituted CWP-4885-2014 before this Court, which became disposed of through an order made thereon, on 04.08.2015, thereby granting liberty to the petitioners to file a detailed and comprehensive representation, before the authority concerned, narrating therein all the pleas, as canvassed in the writ petition. Availing the said reserved liberty, though a representation became filed by the petitioners, however, the said representation appears to have been rejected.

6. Consequently, the petitioners have then filed the instant writ petition before this Court, which resulted in an affirmative verdict becoming

recorded thereon, on 29.01.2018. However, the affirmative verdict (*supra*) caused grievance to the respondent-State, and, led it to institute thereagainst a SLP(C) bearing No.012743 of 2019, before the Hon'ble Apex Court. The Hon'ble Apex Court, through a verdict recorded upon the SLP(C) (*supra*), on 11.07.2023, after allowing the appeal and setting aside the verdict (*supra*) rendered by this Court, remanded the matter to this Court for consideration afresh in accordance with the law laid down in "Indore Development Authority v. Manoharlal", 2020 AIR (Supreme Court) 1496.

7. It would be pertinent to mention here that pursuant to objections becoming filed, under Section 5-A of the Act of 1894, thus by the petitioners, and, upon an objective consideration thereof, though lands comprised in Khasra No.1495 min, 1496 min and 1500 min (1-15-0) became released, however, the remaining parcels of land were brought to acquisition, as the same were deemed vital for achieving the relevant public purpose.

For the reasons to be assigned hereinafter, this Court refrains from granting the espoused relief(s) to the petitioners

8. The apposite relief, which is re-canvassed before this Court, is that, in terms of the verdict, as made by the Hon'ble Apex Court, in ***Indore Development Authority's case (supra)***, the erstwhile landowners, petitioners herein, are entitled to claim the lapsing of the acquisition proceedings, as became earlier drawn under the Act of 1894.

9. For determining the tenacity of the above relief(s), it is apt to refer to the judgment (*supra*), wherein, 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

erstwhile landowners concerned, from claiming the benefit of the lapsing provision, as comprised in Section 24(2) of 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.”

9. However, the most conspicuous fact, which leads this Court to decline the espoused relief(s) (supra), becomes comprised in the factum, as unfolded by the written statement of Dr. Balpreet Singh, Administrator, HSVP, Gurugram, placed before this Court by the learned State counsel, thus with echoings therein, that the possession of the acquired lands, vide Rapat No.569 recorded on 21.07.2003, thus becoming assumed by the acquiring authority concerned. Moreover, it is further divulged therein, that the compensation amount, as, determined in terms of an award bearing No.9 pronounced on 21.07.2003, under Section 11 of the Act of 1894, thus, becoming tendered, and, hence becoming available to be disbursed to the erstwhile landowners concerned. To be precise, it is disclosed therein, that out of the total compensation amount of Rs.73,06,74,448.60/-, an amount of Rs.52,15,17,447/- became disbursed to the landowners concerned, while the balance compensation amount of Rs.20,91,57,001/- is readily available for its becoming available to be disbursed to the landowners concerned.

10. Apart from the above, it is also disclosed in the written statement (supra), that a reference petition under Section 18 of the Act of 1894 also became filed by the predecessor(s)-in-interest of the petitioners, thereby seeking enhancement of compensation from the figures, as became earlier determined by the learned Collector concerned. The effect of the above, is that, thereby the petitioners are deemed to accept the validity of the launching of the acquisition proceedings, and thereby, they are rather estopped from challenging the validity of the launching of the acquisition proceedings.

11. Consequently, in view of the written statement (supra), it is clear that thereby accomplishment is secured by the twin statutory ingredients (supra).

12. Nonetheless, a reading of the written statement (supra), does make graphic emergence(s), that the petition lands are earmarked for the apposite public purpose and thereby are utilized, or are utilizable, and or, are viable for facilitating the apposite public purpose. The petition lands are disclosed therein to be affecting 12 mtr. service road, 30 mtr. sector dividing road and 1 no. clinic site or 1 nursery school, as per the development plan. Consequently, the counsel for the petitioners is restrained from even claiming, that the petition lands are either un-essential or unviable for facilitating the apposite public purpose. Contrarily, post valid termination of earlier launched acquisition proceedings under the Act of 1894, thereupon yet the retention, if any, of the petition lands, by the petitioners, especially when they evidently sub-serve the public purpose, thus is rather completely unlawful.

13. In aftermath, this Court finds no merit in the instant writ petition, and, is constrained to dismiss it. Accordingly, the writ petition is dismissed with costs of Rs.50,000/- to be forthwith deposited in the Punjab and Haryana High Court Employees' Association.

14. All pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

09.10.2023
devinder

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