

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

219

CWP-5653-2016

Date of decision: 06.11.2023

PAWAN KUMAR

.....Petitioner

Versus

CHANDIGARH ADMINISTRATION AND OTHERSRespondents

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

Present : Mr. Anubhav Bansal, Advocate
for Mr. Arun Bansal, Advocate
for the petitioner.

Mr. Jaivir Singh Chandail, Additional Standing Counsel,
for respondent-U.T., Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

1. Mr. Gaurav Mohunta, Advocate puts in appearance on behalf of respondent no. 3-Municipal Corporation Chandigarh and files the vakalatnama, which is taken on record.

2. Through the instant writ petition, the petitioner had asked for de-notification or for release of the petition lands, thus on the ground that the earlier issued notification(s) Annexure P-1, and, Annexure P-3, as became respectively issued on 31.01.1992, and,

29.01.1993, in terms of Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter for short call as the 'Act of 1894'), thus inviting the mandate of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short refer to as the 'Act of 2013'), whereby there is lapsing of the earlier launched acquisition proceedings under the 'Act of 1894'.

3. The above claim/prayer in the writ petition was contested on behalf of the respondents through theirs instituting a reply on affidavit to the present petition.

Reasons for rejecting the claimed writ relief for release of lands in terms of Section 24 (2) of the 'Act of 2013'.

4. The primary reason for doing so, is that, since in the reply furnished to the writ petition, there occur unequivocal echoings, qua through rapat No. 303 dated 05.03.2010, the possession of the acquired lands becoming assumed by the respondent concerned. Moreover with further echoing being made therein, that in terms of Section 31 of the 'Act of 1894', the compensation determined by the Collector concerned, thus becoming tendered, and, thereby it being available for becoming released to the land-loser. Resultantly when the verdict made by the Hon'ble Apex Court rendered in case titled as 'Indore Development Authority Versus Manoharlal and others', to which SLP (Civil) Nos. 9036-9038 of 2016, has been assigned, and, wherein, in the relevant paragraph thereof, para whereof stands extracted hereinafter, it becomes propounded, that when in respect of acquisition proceedings, as become launched, under the 'Act of 1894', rather upon the acquiring authority

begetting compliance, with both the contingencies, spelt therein, thus thereby attraction of the lapsing provisions to the acquired lands, hence as required under Section 24(2) of the 'Act of 2013', rather becoming unavailable for becoming resorted to by the estate loser.

363. In view of the aforesaid discussion, we answer the questions as under:

- 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.

5. Consequently when both the conditions (Supra), inasmuch as, with both conditions relating to, the rapat possession of the acquired lands, becoming assumed on 05.03.2010, besides compensation amount, as determined through the apposite award rather becoming tendered under Section 31 of the 'Act of 1894', for thereafter its becoming available for being released to the estate loser concerned, rather become evidently complied with. In sequitur, the writ relief relating to both the acquisition proceedings, besides also the consequent thereto award becoming declared to become lapsed in terms of Section 24(2) of the 'Act of 2013', is but obviously rejected.

Final Order of this Court.

6. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned

notification(s), and consequent thereto award are maintained and affirmed.

7. No order as to costs.
8. Since the main cases itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

06.11.2023

kavneet singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(SUDEEPTI SHARMA)
JUDGE