

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

(221)

**CWP-68-2018 (O&M)
Decided on : 15.02.2023**

Raju Dadwani

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Abhishek Sharma, Advocate for the petitioner (s).

Mr.Saurabh Mago, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the notification dated 11.05.1990 (Annexure P-8) and dated 08.05.1991 (Annexure P-10) issued under Sections 4 & 6 respectively of the Land Acquisition Act, 1894 and the consequent award dated 05.05.1993 (Annexure P-12) on account of the proceedings having lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Counsel for the petitioner very fairly conceded that the matter is covered in view of the Constitutional Bench judgment of the Apex Court in **Indore Development Authority Vs. Manoharlal & others, AIR 2020 SC 1496**. The questions have been answered as under:

“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continue as provided under [Section 24\(1\)\(b\)](#) of the Act of 2013 under the Act of 1894 as if it has not been repealed.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.

Let the matters be placed before appropriate Bench for consideration on merits.”

It has been averred in the reply filed also that possession has been taken vide Rapat Rojnamcha No.435 dated 05.05.1993 and out of the total amount of Rs.8,83,03,383/-, 87.99% to the tune of Rs.7,77,06,977/- has already been disbursed and the balance amount of Rs.1,05,96,406/- is lying deposited in the LAC account. The amount of compensation due to the petitioner of Rs.3,92,492/- is still lying deposited but has not been collected. It has further been averred that the land of the petitioner measuring 1000 sq.yards falling in Village Ankhir District Faridabad affects the green belt peripheral road, 2 number internal roads of 9 meters of Sector 21D, Faridabad as per the development plan.

Keeping in view the above, we are of the considered opinion that the matter is squarely covered against the petitioner in view of the judgment of the Apex Court in Indore Development Authority (supra) and the non-viability issue also does not survive keeping in view the fact that the roads have to be constructed for planned development. It is open to the petitioner to collect the compensation which stands duly deposited.

Writ petition stands disposed of, in the above-said terms.

(G.S. SANDHAWALIA)
JUDGE

15.02.2023
sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes
No