

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

RA-CW-320-2023 (O & M)
in CWP-16448-2023
Date of Decision : 13.10.2023

SATYA PRAKASH 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. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana
for the review-applicant/respondents.

Mr. Vipin Pal Yadav, Advocate
for the non-applicant-petitioners.

SURESHWAR THAKUR, J. (Oral)

CM-17696-CWP-2023

1. The application for early hearing is allowed and the main case
RA-CW-320-2023 in **CWP-16448-2023** is taken up for hearing today
itself.

Main case.

2. The petitioners espoused the hereinafter extracted reliefs in
CWP-16448-2023.

*Civil Writ Petition under Article 226/227 of the Constitution of
India with the prayer to issue a writ, any other order or direction,
especially in the nature of certiorari to the respondents to de-
notification of land acquired vide notification dated 21.10.2013
(Annexure P-2) and declaration dated 21.08.2014 (Annexure P-5)
for the purpose of construction of Sewerage Treatment Plant at
Dadri, Tehsil Dadri and District Bhiwani which could not take off
over the decades, in so far as it pertains to the land of the
petitioners is concerned i.e. Hadbast No. 171, bearing Rectangle*

No. 21//1, min west (5-16), 10 min west (5-16, and 22//4 (8-0), 6 (9-0), admeasuring 43 K-12 M (5.45 acres),

And/or

Further to issue a writ of mandamus or any other order/direction, to direct the official respondents to return/re-vest the land described above, to the petitioners, in terms of Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

And/or

During the pendency of the present writ petition, direct that status quo be maintained with respect to the land described above, because the same is admittedly in the peaceful cultivating possession of the land and the same is being utilized by the petitioners.

And/or

Any other writ order or direction, including directing the official respondents to decide the legal notice, or treat this writ petition as a representation and decide it in a time bound manner."

3. In the review application, it is claimed that the discussion as made in the order made on 08.08.2023, upon, CWP-16448-2023, which is asked to be reviewed at the instance of the applicants, is not in tandem, with the relief (supra) relating, to the benefit of Section 101 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'), thus becoming assigned to the instant writ petitioner.

4. Though this Court had ad nauseam, determined the validity of the above prayer, but it appears that this Court proceeded, on a purported erroneous premise besides in departure from the above relief, rather concluded vis-a-vis the unavailability of Section 101-A of the 'Act of 2013', to the present petitioners.

5. Nonetheless, the above made discussion, is contrary to the writ claim (supra), despite the same being also spoken in the verdict asked

to be reviewed to be not espousable before this Court. The reason which became assigned by this Court to decline the said relief became rested on the plank, that the judgment made by the Hon'ble Apex Court in case titled as ***'Haryana State Industrial and Infrastructure Development Corporation Ltd. and Others Vs. Deepak Aggarwal and Others, arising out of SLP (C) Nos. 16631-16632/2018***, being squarely applicable to the facts at hand.

6. Before proceeding to delineate the facts relevant, thus for this Court, becoming led to apply the ratio decidendi encapsulated in the judgment (supra) made by the Hon'ble Apex Court, thus to the relevant facts, it is deemed imperative to extract the relevant questions which became answered in the verdict (supra). The said question(s) are carried in paragraph No. 31 of the verdict (supra), para whereof, is extracted hereinafter.

31. Now, we will consider the other common questions involved in the captioned appeals. They pertain to the questions as to whether Section 4 notification issued under the L.A. Act prior to 01.01.2014 (date of commencement of 2013 Act) could continue or survive after 01.01.2014 and, as to whether Section 6 notification under the L.A. Act could be issued after 01.01.2014.

7. Therefore, since the reasons which prevailed upon the Hon'ble Apex Court, to make an answer to the said question, answer whereof occurs in paragraph No. 34, para whereof stand extracted hereinafter, but became marshalled from the factum, that in case upon issuance of notification, under Section 4 under the Land Acquisition Act, 1894, (hereinafter for short called as the 'Act of 1894'), thus taking place prior to the date of commencement of the 'Act of 2013', inasmuch as, on

01.01.2014, thereby rather shall ensure the continuation of the proceedings drawn under the 'Act of 1894' and/or that but obviously a declaration under Section 6 of the 'Act of 1894' can be issued after 01.04.2014.

34. To conclude, we hold that for the purposes of sub-section (1) of Section 24 of the 2013 Act, the proceedings under the L.A. Act shall be treated as initiated on publication of a notification under sub-section (1) of Section 4 of the L.A. Act. We further hold that when Clause (a) of sub-section (1) of Section 24 of the 2013 Act is applicable, the proceedings shall continue as per the L.A. Act. However, only for the determination of compensation amount, the provisions of the 2013 Act shall be applied.

8. The nuance of the answer, as meted to the said question of law framed, in verdict (supra), as occurs in paragraph No. 34, is that, for the purpose of sub section (1) of Section 24 of the 'Act of 2013', the proceedings under the 'Act of 1894', shall be treated as initiated, thus on publication of a notification under sub-section (1) of Section 4 of the 'Act of 1894'. It is further declared therein, that when clause (a) of sub section (1) of Section 24 of the 'Act of 2013', is applicable, thereupon, the proceedings shall continue as per the 'Act of 1894'.

9. The prima donna factum, which prevailed upon the Hon'ble Apex Court, to declare that the proceedings initiated under the 'Act of 1894', shall be deemed to be so initiated, was that, they would become so initiated, rather on publication of a notification under sub section (1) of Section 4 of the 'Act of 1894', and that thereupon alone, irrespective of no subsequent thereto declaration becoming issued under Section 6 of the 'Act of 1894', and that too, prior to the coming into force of the 'Act of 2013', inasmuch as on 01.01.2014, rather the said initiated proceedings

under the 'Act of 1894', shall continue irrespective of the coming into force of the 'Act of 2013', on 01.01.2014.

10. The consequence of the above finding was but obviously that since the provisions of Section 101-A became inserted in the 'Act of 2013' through Haryana Act No. 21 of 2018, thereby when the acquisition proceedings, as stated (supra) under the 'Act of 1894' were to continue but only for a very limited purpose. Therefore, it appears that this Court had, on a purported mis-reading of the relief (supra), inasmuch as, the one embodied in Section 101-A of the 'Act of 2013', thus proceeded to reject the said claim.

11. Nonetheless, since there was no application to the factum (supra) of the 'Act of 2013', thereupon, but obviously the provisions of Section 101 and/or of Section 101-A of the 'Act of 2013' were also not attracted. Therefore, it appears that there was no necessity as such either to make a decision, vis-a-vis, the applicability of the said provision(s) to the facts at hand nor also through any purported mis reading of the writ relief, inasmuch as, relating to Section 101 A of the 'Act of 2013', thus for this Court to proceed to reject the said claim.

12. This Court after in terms of the said declaration and on applying the said declaration to the facts at hand, inasmuch as, in alignment thereof, since the initiation of the instant acquisition proceedings, becoming initiated, through issuance of a notification under sub section (1) of Section 4 of the 'Act of 1894', inasmuch as, prior to the coming into force of the 'Act of 2013', thus on 01.01.2014, though had proceeded to apply the provisions, as encapsulated in Clause (a) of sub section (1) of Section 24 of the 'Act of 2013'. Moreover, though this Court

had also in terms of the above answer meted to the above question, had declared that the lawful acquisition proceedings shall continue in terms of the 'Act of 1894'.

13. Nonetheless, this Court had also quashed the award which was pronounced under the 'Act of 1894'. This Court could have made the said declaration but only when the compensation amount as became determined in the award was thus not determined in terms of 'Act of 2013' but was drawn in terms of the 'Act of 1894'. Conspicuously so, when in the above paragraph no. 34 carried in the verdict (supra), it has been declared that the proceedings when become initiated, on publication of a notification, under sub section (1) of Section 4 of the 'Act of 1894', and, such initiations taking place on coming into force of the 'Act of 2013', inasmuch as, prior to 01.01.2014, thereupon the earlier launched proceedings under the 'Act of 1894', shall continue but yet the determination of compensation, shall be made in terms of the 'Act of 2013'.

14. Since the parties are not at contest nor wrangle over the fact that the determination of compensation, as made through the impugned award, was made in terms of the 'Act of 2013'. Therefore, it appears that a bona fide error has occurred in this Court yet making a writ of certiorari thus declaring the impugned award, to be vitiated and thereafter making, a mandamus upon the respondents, to draw a fresh award in terms of the 'Act of 2013', especially when the said determination rather evidently in terms of the verdict (supra), thus was done through the application of the 'Act of 2013'.

15. In consequence, the application for review of the judgment

strived to be re-called, is allowed.

16. In summa, the impugned award is declared to be valid, as the determination of compensation thereunder was made under the 'Act of 2013'. Moreover, any discussion as made in the verdict strived to be recalled with respect of the application or otherwise to the facts qua the provisions of Section 101 A of the 'Act of 2013', may not be read, as such, since as stated (supra) the said discussion is contrary to the relief which is agitated in the writ petition, and, which is specifically confined, to the availability of the provisions of Section 101 of the 'Act of 2013' to the land losers concerned.

17. Even otherwise, after the pronouncement of the award, which has been declared valid by this Court, besides when this Court, has in a judgment made by this Court in '*The Press Employees and Friends Co-operative Group Housing Society Ltd. Vs. State of Haryana and Others*', **2023: PHHC:106793-DB**, thus dealt with ad nauseam besides has interpreted the ingredients of un-essentiality and unviability of the lands, being retained for the relevant public purpose. Moreover, when it has been categorically spelt in the reply, on affidavit, furnished to the writ petition, that the acquired lands are an integral component of the layout plans. Consequently, this Court deems it fit and appropriate not to assign the benefit of provisions of Section 101 of the 'Act of 2013' to the present petitioners.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

13.10.2023

kavneet singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No