

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

106

CWP-26487-2023

Date of decision: 24.11.2023

PREM SINGH AND OTHERS

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present : Mr. Ashwani Gaur, Advocate
for the petitioners.

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

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners earlier instituted CWP No. 16382-2017 before this Court. In the said petition, the disputed lands were stated to be occurring in Village Patti Musalmaan, Tehsil and District Sonapat.

2. Through a decision made thereons on 15.02.2018 (Annexure P-12), this Court had made thereons the hereinafter extracted direction(s).

“The petitioners while seeking quashing of the notifications dated 18.10.2002 and 08.09.2003 issued under Sections 4 & 6 of the Land Acquisition Act, 1894, respectively, in respect of acquisition of part of the land mentioned in para-2 of the writ petition, in which they are co-owners, rely upon the decision dated 26.05.2014

rendered by this Court in a bunch of writ petitions including CWP No.9278 of 2010 (Jiwan and others versus State of Haryana and others (P-7). It is stated that the said decision has been taken in the case of the co-sharers of the petitioners and they being identically placed, are entitled to the benefit of such order coupled with the order dated 26.09.2016 passed by learned Single Judge in COCP No.1569 of 2015 (Jiwan and others versus P.Raghvendra Rao and another) (P-8).

Since the petitioners are claiming parity with the case of Jiwan and others (supra), we dispose of this writ petition with a direction to respondent Nos.1 to 4 to verify the above-mentioned claim of the petitioners in the light of the above cited decision and decide the same within a period of four months from the date of receiving a certified copy of this order.”

3. The Additional Advocate General, Haryana aptly submits that the import of the said order, is that, a direction was meted to the acquiring authority concerned, to, assign to the petitioners, if otherwise they were entitled to, thus parity with the petitioners who had filed CWP No.9278 of 2010 titled as 'Jiwan and Others versus State of Haryana and Others.

4. The decision, as made in pursuance to the said direction(s) is encapsulated in Annexure P-14. Though a reading of the conclusion made in the said decision, declares that the petitioners are not entitled to parity alongwith the petitioners in case titled as Jiwan and others (supra), but yet a grievance is raised today before this Court, by the learned counsel for the petitioners, that since in the earlier writ petition, the assertion was with respect to lands situated in revenue estate of

Village Patti Musalmaan, Tehsil and District Sonapat. Therefore, the consideration order which was required to be passed was to be made with respect to the said revenue estate. However, he submits that a reading of the impugned order (Annexure P-14), discloses that the consideration order, as has been recorded, through the impugned annexure rather has been made in respect of land(s) situated in revenue estates of Village Shahjanpur, Sonapat.

5. The above made address before this Court is supported by a reading of the impugned Annexure P-14. Therefore, the said annexure is required to be quashed and set aside, the same being rendered not in terms of the verdict (*supra*), as made by this Court.

6. Though the learned counsel for the petitioners also submits that the petitioners are entitled to the benefit of the lapsing provisions as unfolded in 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'). The said provisions become interpreted by the Constitutional bench of Hon'ble Apex Court in a decision rendered in case titled as 'Indore Development Authority Versus Manoharlal and others', to which SLP (Civil) Nos. 9036-9038 of 2016, has been assigned. Thereins it has been expostulated, that in case ample discharging evidence is adduced by the acquiring authority, in respect of rapat possession being assumed of the acquired lands prior to coming into force of the 'Act of 2013' besides qua compensation, as determined under the Land Acquisition Act, 1894 becoming deposited in terms of Section 31 of the said Act, before the

Collector concerned, for thereafter it becoming available for becoming disbursed to the land losers concerned. Resultantly thereby the aggrieved land losers concerned, are not entitled to claim a declaration that they are entitled to the benefit of the lapsing provisions (supra).

7. However, the said advanced plea before this Court was also required to be advanced in the earlier writ petition, whereas, its remaining un-advanced therein. Therefore, the above lack of earlier propogation of the said pleas, thus estops the petitioners to make the said contention before this Court.

8. In aftermath, after rejecting the above submission, this Court, directs the authority concerned, to strictly in terms of Annexure P-12, make a consideration order in respect of the writ lands. The said consideration order is directed to be made within four weeks from today but after hearing all affected concerned.

9. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

24.11.2023
kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No