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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26150-2023

Date of decision:21.11.2023

RAM KISHAN

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Himanshu Yadav, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for HSIIDC-respondent No.4.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition a challenge is made to the making of an Award No.1/2022 dated 16.08.2022 (Annexure P-12), thus on the ground, that the said award is vitiated, inasmuch as it was pronounced under the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894') whereas, it was to be passed in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013').

2. Learned counsel appearing for the State submits, on instructions imparted to him, by the officer concerned, that the impugned

award was rendered under the Act of 1894 only because the impediment in the making of an award thereunder, rather arose on account of the acquisition proceedings launched under the Act of 1894, becoming stayed through the orders becoming rendered by Courts of law.

3. He further submits that as soon as the stay orders restraining the launching of acquisition proceedings under the Act of 1894, became vacated, thereupon, the impugned award became rendered under the Act of 1894.

4. Since the above factum of non-rendition of an award under the Act of 2013, whereas, the impugned award becoming rendered under the Act of 1894, thus becomes justified, especially when the acquisition proceedings were drawn through the issuance of the apposite notification under the Act of 1894, besides when the effect of the phase, during which the order staying the dispossession of the petitioner over the disputed lands, or against the launching of further proceedings, under the Act of 1894, thus becomes but squarely protected for the purpose of making an award under the Act of 1894, by a verdict of the Hon'ble Apex Court, rendered in ***'Faizabad-Ayodhya Development Authority, Faizabad Versus Dr. Rajesh Kumar Pandey and Others; 2022 Live Law (SC) 504'***, wherein, the relevant expostulations of law, have been made in paragraphs No.10.12 and 10.13, 17(i) thereof, paras whereof, are extracted hereinafter.

"10.12 *Thus, it is necessary to dwell into the reasons as to why no award has been made. As discussed aforesaid, if there is an order of restraint on the Collector or on the acquiring authority and as a result of which, the Collector or the Land Acquisition Officer is not in a position to make an award for reasons beyond his control and in compliance of the interim order granted by a court of law at the instance of the land owner or any other person who may have questioned the acquisition, the period during which the interim order has*

operated has to be reckoned and if on the date of enforcement of Act, 2013 i.e., 01.01.2014, no award has been made owing to the operation of such an interim order granted by a Court in favour of the land owner, then the provisions of the 2013, Act cannot straightaway be made applicable in the determination of the compensation. This is because, but for the operation of the interim order, the award could have been made under the provisions of the Act, 1894 until 31.12.2013 and then provisions of Act, 1894 would have applied as per clause (b) of sub-section 1 of Section 24. But on the other hand, owing to the operation of the interim order granted by a Court in favour of land owner, the award would not have been made as on 01.01.2014 when the Act, 2013 was enforced.

10.13 *In our view in such a situation the acquiring authority cannot be burdened with the determination of compensation under the provisions of the Act, 2013. In other words, the land owner cannot, on the one hand, assail the acquisition and seek interim orders restraining the authorities from proceeding further in the acquisition, and on the other hand, contend that since no award has been made under Section 11 of Act, 1894 on 01.01.2014, the provisions of the Act, 2013 should be made applicable in determining the compensation.*

17. *In view of the above and for the reasons stated above, it is observed as under:-*

(i) It is concluded and held that in a case where on the date of commencement of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, no award has been declared under Section 11 of the Act, 1894, due to the pendency of any proceedings and/or the interim stay granted by the Court, such landowners shall not be entitled to the compensation under Section 24(1) of the Act, 2013 and they shall be entitled to the compensation only under the Act, 1894.”

5. Therefore, the making of an award under the Act of 1894 is completely valid. In consequence, this Court finds no merit in the petition, and, is constrained to dismiss the same. Hence, the instant petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

21.11.2023
Ithlesh

(SUDEEPTI SHARMA)
JUDGE

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