

CWP-1111-2019
Reserved on: 18.04.2024
Pronounced on: 29.04.2024

Versus

2. The above espoused writ claims become founded upon the provisions of Section 24(2) of the Right to Fair Compensation and

2013 (for short 'the Act of 2013'), whereunders the petitioners become empowered to claim the making of a lapsing declaration.

3. The present petitioners would be entitled to the espoused writ relief(s), as relates to this Court, thus declaring rather lapsed the extantly drawn acquisition proceedings, but only when the provisions embodied in Section 24(2) of the 'Act of 2013', become proved to become breached by the respondents. However, for the reasons to be assigned hereinafter, the asked for relief qua the making of a lapsing declaration rather cannot be accorded by this Court.

4. Primarily for the reason, that the present petitioners would be entitled to coax this Court to declare the launching of the acquisition proceedings under the Act of 1894, to thus become lapsed, but only when the respondent-State, rather had completely failed to, in terms of the verdict rendered by the Constitutional Bench of the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129***, adduce sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for therebys its becoming available for being released to the land losers concerned, besides the said events evidently happening before the coming into force of the 'Act of 2013'.

5. To determine the above, it is necessary to refer to the reply on affidavit, already on record. A reading of the paragraph no. 7 of the said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat roznamcha No. 916 dated 24.07.2008.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that the total assessed compensation amount, under award dated 22.07.2008 became tendered at the time of announcement of award and that the petitioners have received the entire compensation amount thereof. The said fact is even admitted by the petitioners in paragraph No. 19 of the writ petition. Further, the petitioners have stated therein that they are ready to return the same alongwith interest.

7. The effect of the above, is that, thereby the petitioners are deemed to accept the validity of the launching of the acquisition proceedings, and thereby they are rather estopped from challenging the validity of the launching of the acquisition proceedings nor can the petitioner(s) merely in the garb of their showing their readiness and willingness to re-deposit the compensation amount rather can claim that a notification be issued rather for de-notifying the acquired lands.

8. In consequence, since both the above events took place prior to the coming into force of the 'Act of 2013', resultantly, in terms of the verdict recorded by the Hon'ble Apex Court in **Indore Development Authority's case (supra)**, the present petitioners are not entitled to make any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the 'Act of 2013'. In sequel, the above made writ claim is declined.

9. Further, a reading of para No. 5 of the reply, on affidavit, it is revealed that the petitioners had filed objections under Section 5-A of the 'Act of 1894' for release of their land on the ground of existing residential house at site. The Land Acquisition Collector however

development of Industrial area yet the land comprised in Khasra Nos. 17//23/2/2(4-9), 22//3/2/2 min south west (0-7), 3/2/2 min north (3-0) and 22/8 min north west (0-10) was excluded from Section 6 declaration, thus on the recommendations of the Deputy Commissioner, on account of existing structure at site. Therefore, the objection(s) as became filed by the petitioners became decided and even releases of some portion of lands were made in favour of the petitioners, and the remaining land required for furthering the requisite public purpose was acquired through the impugned notification(s). Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

10. Moreover, the plea of the petitioners qua theirs still lawfully retaining possession over the subject lands, is a mis-founded plea, as, the occupation of the petitioners, over the subject lands rather is as trespassers thereovers and the petitioners are required to be lawfully evicted therefrom.

11. Conspicuously also since it has been stated, in the reply on affidavit, already on record, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose than the individualistic interest is rather to be furthered. Resultantly, this Court finds no merit in the instant petition, and, is constrained to dismiss it.

Final Order of this Court.

12. 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

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

(SURESHWAR THAKUR)
JUDGE

29.04.2024
kavneet singh

(LALIT BATRA)
JUDGE

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