

**CWP-1948-2020****-1-****111****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CWP-1948-2020****Date of decision:27.05.2024****CHUHAR SINGH AND OTHERS****...Petitioners****Versus****STATE OF HARYANA AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA****Present: Mr. Vishal Garg Narwana, Advocate
for the petitioners.****Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.****Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchnda, Advocate and
Ms. Saanvi Singla, Advocate for HSVP.************SURESHWAR THAKUR, J. (ORAL)**

1. The subject lands became subjected to acquisition through issuance of a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), on 06.12.2004 (Annexure P-1), and, was succeeded by a declaration issued under Section 6 of the Act of 1894, on 05.12.2005 (Annexure P-3), and, the consequent thereto award was rendered, on 17.03.2015 (Annexure P-5).

2. Learned counsel for the petitioners has argued, that the petitioners are entitled to make an espousal before this Court, that a lapsing declaration be made in respect of the subject lands, thus in terms of Section



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Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the “Act of 2013”).

3. However, the above made argument before this Court is completely bereft of any merit, and, is required to be rejected.

4. The reason for stating so is embodied in the factum, that it is forthrightly spoken in the reply on affidavit furnished to the instant writ petition on behalf of co-respondents No.1 and 2, that through rapat possession bearing No.309 dated 4.05.2009 and through rapat possession bearing No.335 dated 27.06.2018, thus therethroughs the possession became assumed over the subject lands. Moreover, it has also been stated in the reply on affidavit that the determined compensation amount was in contemporaneity to the rendition of the award, thus made available for disbursements thereof to the land-losers concerned.

5. Consequently, since the above stated facts in the reply on affidavit, do comprise cogent material in satisfaction of the duo of parameters spelt out by the Constitutional Bench of Hon’ble Apex Court rendered, in **“Indore Development Authority V. Manoharlal and others” (2020) 8 SCC 129**, whereby it has been expostulated that a) assumption of rapat possession and b) the deposit of compensation for thereby the same being available for disbursement to the land-losers concerned, thus dis-entitles the land-losers concerned, to claim relief that a lapsing declaration in terms of Section 24(2) of the Act of 2013, be made in their favour. Conspicuously when both the events (supra) happened prior to the coming into force of the Act of 2013.

6. Be that as it may, the learned counsel for the petitioners, further argues that since in respect of the lands of other land-losers concerned, thus release(s) of their acquired land was made, thereby he submits that the

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present petitioners be awarded parity of treatment with such land-owners, whereas, with the subject lands becoming not released to the present petitioners, thereby the present petitioners have been discriminated.

7. In the above regard, it is unfolded, on a reading of paragraph Nos.8 and 9 of the reply on affidavit, that only the lands of those land-owners became released whereons some constructions existed, and, the said constructions were in existence prior to the issuance of a notification under Section 4 of the Act of 1894. Contrarily, in respect of the present petitioners, it is stated in the reply on affidavit that at the time of issuance of the notification under Section 4 of the Act of 1894, the subject lands were vacant, besides it is also spoken therein, that after the present petitioners filing objections in terms of Section 5-A of the Act of 1894, the said objections became rejected through a detailed speaking decision made thereons, on 17.03.2015, thus with the reason that the subject lands were vacant at the time of issuance of a notification under Section 4 of the Act of 2013.

8. In the light of the above, there is but apparently a distinction *inter se* the lands of the present petitioners, with the lands of those land-owners rather whose lands became released from acquisition. Resultantly, the learned counsel for the petitioners cannot make an argument before this Court that the petitioners were required to be treated at par with such land-owners concerned, nor thereby can contend that the present petitioners have been subjected to visible discrimination at the instance of the respondents concerned.

9. Be that as it may, the speaking decision whereby the objections raised by the present petitioners under Section 5-A of the Act of 1894, rather became dismissed was made on 17.03.2015, and, yet the said decision



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becoming challenged much belatedly therefrom, inasmuch as, in the year 2020, thus after an elongated delay of 5 years. Therefore, when in a judgment titled *M/S. Star Wire (India) Ltd vs The State Of Haryana & Ors on 25 September, 1996, 1996 (11) SCC 698* rendered by Hon'ble Apex Court, it has been expostulated, that belatedly instituted claims are *per se* imbued with a vice of delay and laches, as therebys the petitioners abandon and waive their rights over the disputed lands. Resultantly, therebys the concomitant estopping principle, also does stem.

10. Lastly, the learned counsel for the petitioners contends that he may be permitted to yet file a representation before the competent authority to claim the release of subject lands in terms of Section 101-A of the Act of 2013.

11. A perusal of paragraph 10 of the reply on merits of the reply, reveals that the subject lands are an integral component of the development as per approved layout plan of acquired pocket in Sector 7 Part, Kurukshetra bearing Drg. No. DTP (KK)1089/2015 dated 27.11.2015. The land in question affects the planning of 6 marla plots, besides 12 meter wide road. Sequel thereof, is that, when the acquired estates of the present petitioners are an integral component of the layout plan, therebys, the releasings of the subject lands, would be an unjustifiable tinkering with the layout plan.

12. Conspicuously, thus it has been stated therein, that the therebys to be affected the relevant public purpose(s) at the above sites, rather would become direly jeopardized, if the subject lands are released from acquisition. If so, this Court does not deem it fit, and, appropriate to make any tinkerings with the layout plan(s) which are drawn by the Engineering Cell of the Acquiring Authority concerned.

13. Resultantly, this Court does not also deem it fit, and, appropriate to order for the subject lands being released from acquisition, hence the instant petition stands dismissed.
14. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)

JUDGE

27.05.2024

Ithlesh

(LALIT BATRA)

JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable: Yes/No