

In the High Court of Punjab and Haryana at Chandigarh

(118)

CWP No. 2856 of 2024 (O&M)

Date of Decision: 8.2.2024

Sita Devi and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Vikram Singh Punia, Advocate with
Mr. Amit Swaich, Advocate
for the petitioners.

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

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for the respondent-HSIIDC.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners instituted CWP No. 8698 of 2013, before this Court, whereby they claimed a relief, that their acquired lands be released from acquisition.

2. On the said petition, a decision was made on 22.7.2013 (Annexure P-11), whereby this Court made the hereinafter directions, upon the respondents concerned.

“Having heard learned counsel for the parties and keeping in view the nature of relief sought by the petitioners and their pleas, namely, (i) that the acquired land in the neighbourhood has already been released; (ii) recommendations for the release of their land as well have also been made, and (iii) their land was acquired due to inadvertent mistake and error committed by the Land Acquisition Collector, we deem it

appropriate to dispose of this writ petition with a direction to the respondents to ascertain the facts and if there is any substance in the petitioners' plea, consider the release of their land from acquisition by passing a speaking order, within a period of four months from the date of receiving a certified copy of this order.

Till the speaking order is passed, the parties are directed to maintain status-quo.

Ordered accordingly.”

3. The said consideration order (supra), as made in respect of the writ relief, has resulted in, as submitted by the learned Additional Advocate General qua the competent authority concerned, vide an order made on 26.10.2017 (Annexure P-12), rather rejecting the petitioners claim, for their acquired lands becoming released from acquisition.

4. Though, the said decision adversarial to the petitioners, was assailable in the promptest sequel to its making, but yet the present petitioners chose not to challenge it, rather they proceeded to file CWP No. 30016 of 2017 before this Court, and, therein they proceeded to draw sustenance from the mandate carried in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short ‘the Act of 2013’).

5. However, on the said writ petition (supra), a decision, as enclosed in Annexure P-14 became passed whereby, in terms of the concession made, at the bar, by the learned counsel for the petitioners, that since the said claim rested, upon, the provisions of Section 24(2) of the Act of 2013, is not amenable for being granted to the petitioners, in terms of the verdict drawn by the Constitutional Bench of the Hon’ble Apex Court in

Indore Development Authority versus Manohar Lal and others, reported

counsel for the petitioners, that the said Civil Writ Petition be dismissed, therefore ultimately it became dismissed. Consequently, also thereby the relief raised therein, and, hinged upon the mandate of Section 24(2) of the Act of 2013 became denied to the petitioners.

6. The rejection order made on the petitioner's representation, was made in the month of October, 2017, and, the writ petition (supra) became instituted post the making of the said rejection order, inasmuch as, it became instituted in the month of December 2017. Therefore, though the said rejection order was also challengeable in the writ petition (supra), but yet it remained unchallenged therein. Therefore, for omission of any challenge being thrown thereto in the said writ petition, thereby a belated challenge to the said rejection order in the instant petition, is but squarely hit, by the bar of estoppel created by the Order 2 Rule 2 CPC.

7. The learned counsel for the petitioner still argues, that though through the instant petition a belated challenge is laid to the rejection order, made in the year 2017, but yet the instant CWP is yet maintainable, and, he supports the said submission on anvil of Section 14 of the Limitation Act, inasmuch as, he submits that the earlier remedy was a bona fide remedy.

8. However, the said submission, does not appeal to the judicial conscience of this Court, as in the light of the pointed fact, as surfaces in the instant case, and, as relates to the making of the rejection order in the month of October 2017, and, the writ petition (supra) becoming instituted in the month of December 2017, wherein, despite a challenge being raisable to the validity of the making of the said rejection order, yet therein being an omission of a challenge thereto, thereby obviously, as stated (supra), the said

omission remained uncured, as the Rule of estoppel created in Order 2 Rule 2 of the CPC, bars the petitioners to raise any ground which was raisable earlier, and, which they omitted to do so. Therefore, the provision of Section 14 of the Limitation Act, does not yet save the applicability of the doctrine of estoppel, to the maintainability of the instant writ petition.

9. In consequence, this Court finds no merit in the instant petition, and, is constrained to dismiss it. Accordingly, the instant petition is dismissed. The impugned annexures are maintained, and, affirmed.

10. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 08, 2024
Gurpreet

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