

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-14498-2016
Reserved on: 04.04.2024
Pronounced on: 18.04.2024

KISHAN SAHAI AND OTHERS

.....Petitioners

Versus

STATE OF HARYANA AND ANOTHER

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Argued by: Mr. Vikram Singh, Advocate
Mr. Divyam Singh, Advocate and
Ms. Sumitra, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Pradeep Prakash Chahar, Sr. DAG, Haryana.

Mr. Neelesh Bhandari, Advocate for
Mr. H.S. Gill, Advocate
for respondent No.2.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioners pray for quashing of notification (Annexure P-4) issued on 09.06.2003, under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”); and notification (Annexure P-5) issued on 02.06.2004, under Section 6 of the Act of 1894, besides pray for quashing of impugned order (Annexure P-10).

2. The impugned notifications are claimed to become lapsed by the petitioners, thus by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act,

2013 (hereinafter referred to as “the Act of 2013”).

3. The Government of Haryana through the impugned notifications acquired lands, for public purpose namely Development of residential, commercial and institutional area Sector 57 part at Gurgaon.

4. Through an order made on 14.12.2016, in the instant writ petition, this Court allowed the petition and the acquisition proceedings were declared to have become lapsed under Section 24(2) of the Act of 2013. The said verdict was challenged by the Government of Punjab before the Hon'ble Apex Court by filing SLP (C) No.6306 of 2023, which was converted into Civil Appeal No.2157 of 2023.

5. The learned counsel appearing for the contesting litigants, consensually submit before this Court that the instant petition is covered by paragraph Nos. 3 and 7 of the verdict made, on 11.04.2023, by the Hon'ble Apex Court, on the Civil Appeal (supra), paragraphs whereof are extracted hereinafter.

*“3. In all these appeals, the issue relates to the first category, namely, where before the High Court, the original writ petitioners challenged the acquisition/acquisition proceedings under the Act, 1894, which, as such, were filed much prior to the Act, 2013 came into force and submitted the amendment applications for the relief of deemed lapse of acquisition under Section 24(2) of the Act, 2013 on the grounds that neither the possession was taken over nor the compensation was paid/tendered. Without deciding the writ petitions on merits on other grounds, more particularly the grounds on which the acquisition/acquisition proceedings under the Act, 1894 were under challenge, solely relying upon the decision of this Court in the case of **Pune Municipal Corporation v. Harakchand Misirimal Solanki, reported in (2014) 3 SCC 183**, the High Court has allowed the writ petitions and has declared that the acquisition*

with respect to the lands in question is deemed to have lapsed under Section 24(2) of the Act, 2013.

4, 5, 6. xxx

7. *In view of the above and for the reasons stated above, all the civil appeals as per para 3 of this judgment, arising out of the impugned common judgments and orders passed by the High Court of Punjab and Haryana at Chandigarh in CWP No. 4015/2006 and other allied writ petitions are allowed. The impugned judgment(s) and order(s) passed by the High Court declaring that the acquisition with respect to the lands in question is deemed to have lapsed under Section 24(2) of the Act, 2013 is/are hereby quashed and set aside. However, the matters are remitted back to the High Court to decide and dispose of the main writ petitions afresh in accordance with law and on their own merits on other issues except the applicability of Section 24(2) of the Act, 2013. We request the High Court to finally decide and dispose of the writ petitions on remand at the earliest and preferably within a period of nine months from the date of receipt of the present order. All contentions and defences which are available to the respective parties are kept open to be considered by the High Court in accordance with law and on their own merits (except the submission of applicability of Section 24(2) of the Act, 2013)."*

6. Through an order of 11.04.2023, the Hon'ble Supreme Court remitted the matters to this High Court, thus to decide and dispose of the writ petitions afresh in accordance with law and on their own merits, on other issues except the applicability of Section 24(2) of the Act of 2013. Therefore, this Court is in terms of the directions contained in the said paragraphs, thus required to decide and dispose of the instant writ petition afresh in accordance with law, and, on its own merits and issues. However, though the Hon'ble Apex Court in terms of the above extracted paragraphs, has declared that the instant

writ petition be decided afresh excepting the applicability of Section 24(2) of the Act of 2013, to the instant writ petition.

7. Be that as it may, yet this Court is required to be considering the validity of the rejection order passed by the competent authority (Ann. P-10).

8. A reading of Annexure P-10 discloses, that it was made in pursuance to the directions passed by this Court in CWP-5272-2015. The operative para of the said directions are extracted hereinafter.

“After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties.”

9. Through the said order the claim raised by the petitioners for theirs estates/lands being released from acquisition became rejected.

10. The reason for not releasing the petitioners' lands/ constructions becomes banked upon the said constructions being raised on the acquired lands prior to the issuance of a notification under Section 4 of the Act of 1894, besides becomes founded upon the factum, that the said constructions are an integral component of the layout cum demarcation plan. Moreover, when it is

also stated therein, that the development works on the acquired lands have been completed.

11. Resultantly, since the order rejecting the petitioners’ claim for releasing their lands/constructions from acquisition, thus became founded upon the well made premise (supra). Consequently, when the preparation of the layout plan is done through employments of the expertise of the Engineering Cell concerned. Therefore, the expertise employed by the Engineering Cell of the Acquiring Authority concerned, rather is not required to be tinkered with. Since the inclusions therein vis-a-vis the constructions made over the acquired lands by the present petitioners, rather do thereby further and facilitate the public purpose. Moreover, when the said public purpose is spoken in the impugned order (Annexure P-10) to become completed through development works being made thereons. Resultantly, at this belated stage, this Court does not deem it fit, and, appropriate to release the lands/constructions of the petitioners.

12. Hence, this Court finds no merit in the instant writ petition, hence the same is dismissed.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

18.04.2024
Ithlesh

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