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**107 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-15615-2016
Date of Decision : 10.05.2024

BALBIR SINGH @ BALLUPetitioner

Versus

STATE OF HARYANA AND OTHERSRespondents

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

Present : Mr. Deepender Singh, Advocate
for the petitioner

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

Mr. Deepak Balyan, Advocate
for respondent – HSIIDC.

SURESHWAR THAKUR, J. (Oral)

1. The instant writ petition became remanded by the Hon'ble Supreme Court vide order dated 20.02.2024, upon, Civil Appeal No.2858-2862 of 2024. The operative part of the said order is extracted hereinafter.

“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

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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)."

In such view of the matter, the appeals are allowed. Accordingly, the impugned orders stand set aside and the matters are remitted to the High Court to be decided on the issues other than the one covering the field in Indore Development Authority (supra).

No costs."

2. A reading of the above extracted remand order, as, passed by the Hon'ble Apex Court, on the apposite Civil Appeals, reveals that this Court is not required to either delving into or making any adjudication vis-a-vis the applicability of the provisions enshrined in Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, vis-a-vis, the present petitioner, but rather is required to answer/adjudicate the writ petition on the other issues on merits.

3. Be that as it may, a perusal of the reply on affidavit reveals that the possession over the acquired lands became assumed through rapat roznamcha bearing No. 742 dated 07.08.2008. As far as the compensation qua the subject lands is concerned, the petitioner has already been paid Rs. 1,53,967/- @ Rs. 16.00 lacs per acre and thereafter the enhanced compensation amount comprised in a sum of Rs. 1,30,753/- @ Rs. 26.00 lacs per acre, has also been paid to the petitioner.

4. Further, it is indicated in the reply on affidavit, that an amount of Rs. 9,91,885/- has already been paid as compensation to the

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comprised in a sum of Rs.1,23,874/- is lying deposited in the learned ADJ Court concerned. The said enhanced compensation has not been disbursed to the petitioner owing to pending litigation.

5. The effect of the above, is that, thereby the petitioner is deemed to accept the validity of the launching of the acquisition proceedings, whereby he is rather estopped from challenging the validity of the launching of the acquisition proceedings

6. Furthermore, a reading of para No. 10 of the reply on affidavit, reveals that the petitioner has earlier challenged the acquisition proceedings by way of filing CWP No. 12953 of 2008. The said writ petition became dismissed by this Court, through a common order dated 27.01.2010, passed upon, CWP No.12502 of 2008 and other connected cases, wherebys, the launched acquisition proceedings became upheld. Thereby also the subsequent challenge laid to the acquisition proceedings is barred by the principle of constructive *res judicata*.

7. In addition, the plea of the petitioner qua his lawfully retaining possession over the subject lands, is a mis-founded plea, as, the occupation of the petitioner, over the subject lands rather is as trespasser thereovers and the petitioner is required to be lawfully evicted therefrom. The above becomes sparked from the factum that on issuance of a notification under Section 4 of the 'Act of 1894', the land owner(s) became divested of any right, title or interest over the acquired lands, whereas, complete investment of right, title and interest

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over the acquired lands, rather became thus conferred, upon, the acquiring authority.

8. 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.

9. 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 affirmed.

10. No order as to costs.

11. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

10.05.2024

kavneet singh

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