

CWP-22073-2013 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22073-2013 (O&M)

Reserved on: 10.01.2024

Date of Decision : January 22, 2024

DR. A.C. NAGPAL

...Petitioner

V/S

THE STATE OF HARYANA OTHERS

...Respondents

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

Present : Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Pankaj Gautam, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner claims relief for quashing of notification dated 11.11.2002 (Annexure P-2), as became issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), besides he also prays for quashing of declaration made on 07.11.2003 (Annexure P-4), under Section 6 of the Act of 1894. Moreover, a prayer is also made for quashing of the award dated 28.10.2005 (Annexure P-6), as became passed by the learned Collector concerned. In addition, a claim for release from acquisition of the petition lands, is also espoused.

2. This Court through an order made on 27.10.2016, assigned to the petitioner, the lapsing declaration in terms 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”). The said order was challenged before the Hon’ble Apex Court by the State of Haryana. As revealed by Annexure A-1, the Hon’ble Apex Court set aside the order (supra), with a direction to this Court, to decide the said claim, in terms, of the expostulations of law as made by the Constitutional Bench, of the Hon’ble Apex Court, in a verdict rendered in case titled as “**The State of Haryana and others V. Dr. A.C. Nagpal**”. Moreover, as revealed by a perusal of Annexure A-1, the Hon’ble Apex Court also permitted the contesting litigants to raise all other contentions before this Court.

3. Insofar as, the claim for the makings of a lapsing declaration by this Court, thus in terms of Section 24(2) of the Act of 2013, is concerned, the said claim is required to be rejected.

4. The reason for making the above conclusion, stems from the factum, that in terms of the verdict of the Hon’ble Apex Court rendered in “**Indore Development Authority V. Manoharlal and others**” (2020) 8 SCC 129, thus the respondent has adduced satisfactory discharging evidence in respect of;

a) Rapat possession being assumed of the petition lands thus through rapat No.123 of 28.10.2005.

b) That the determined compensation amount becoming also declared in the reply on affidavit, to become made available for disbursement to the land-losers concerned.

c) Therefore, as but a natural corollary theretos, the claimed lapsing declaration cannot be made qua the petitioner.

d) Furthermore, since it has also been detailed in the reply, on affidavit, that after the making of the award, by the

learned Collector concerned, the petitioner has filed a petition, under Section 18 of the Act of 1894, seeking thereby the enhancement of the compensation amount. In consequence, it has to be but concluded, that the petitioner has accepted the challenged award, thereby he becomes completely estopped to raise any challenge to the acquisition proceedings, as became launched under the Act of 1894.

5. Be that as it may, prior to the institution of the instant writ petition, the petitioner had filed CWP-4605-2004, wherein, the petitioner alleged discrimination becoming perpetrated qua him, by the Acquiring Authorities, inasmuch as, the respondents concerned, releasing the lands of similarly situated persons, yet no parity therewith, becoming assigned to the present petitioner. However, the said petition became dismissed, through an order drawn thereon, on 16.03.2004. Now so far as the said ground of discrimination which may have existed earlier in the year 2004, thereby the said belatedly espoused ground of discrimination, thus cannot be argued to be yet available to be re-recoursed by the present petitioner, given for the earlier non raisings thereof, the petitioner but waiving the said ground, thereby his also abandoning the same, whereby he is estopped from raising the same before this Court.

6. The petitioner yet filed CWP-12997-2012, before this Court claiming therein, that since the lands have been released vis-a-vis one Shri Ved Pal and Shri Bharat Singh, thus in the year 2008, thereby when the petitioner is at par with the (supra). Resultantly, he be treated alike (supra).

On the said writ petition a direction was made for deciding the apposite

representation, of the petitioner, but the said representation was declined

through an order made thereons, on 03.05.2013. The said declining order is also challenged before this Court.

7. The prime reason for this Court proceeding, to not quash the declining order, as made on the petitioner's apposite representation wherein, he claimed release or exemptions from acquisition of his acquired lands, rather is grooved in the factum, that though the releases in respect of one Shri Ved Pal, and, Shri Bharat Singh, were made in the year 2008, but yet the petitioner much belatedly therefrom, inasmuch as in the year 2012, claiming parity with the (supra). The said belated claim for parity with one Shri Ved Pal and Shri Bharat Singh rather by the present petitioner, but obviously makes the plea of discrimination becoming belatedly erected, by the present petitioner, besides the non-assigning of parity therewith rather to the petitioner, thus is tenable. Contrarily, reiteratedly the instant petition with the above belatedly raised plea of discrimination, rather also reeks of the stenche(s) of the vice of delay and laches.

8. Even otherwise, irrespective of the above, the releases as were made vis-a-vis one Shri Ved Pal and one Shri Bharat Singh, with whom the present petitioner claims parity, were singularly premised, on socio-religious premises, inasmuch as, on the lands of the above, but existing Smadhis of the ancestors of the land-losers (supra). Since the petitioner neither pleaded nor proved, that the Smadhis of his ancestors existed on the acquired lands, therefore too, when the primary reason for making releases of lands to the land land-losers (supra), were premised on the above plank. Therefore, also no parity with the said land-losers, cannot be claimed by the present petitioner.

9. Be that as it may, it is reflected in the reply on affidavit furnished to the writ petition, that the writ lands are an integral, and, insegregable component, of the layout plans, for theirs thus facilitating the public purpose, for which they became acquired. If so, the apposite contemplation, as made by the respondent concerned, thus for the retention of the writ lands, does not require any interference being made by this Court, as the public purpose for which they are required to be retained, does squarely fall, within the objective contemplation of the respondent concerned. The said objective contemplation as made by the respondent, if was ill made, thereupon thus required adduction of some cogent material but suggestive, that the said contemplation is falsely made or arose, from some collusion inter-se the respondent concerned, and, those landowners concerned, whose estates became released from acquisition. Since the above material is not existing on record, thereby the claim for release of the acquired lands, but naturally capsizes.

10. In aftermath, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Hence, the instant petition is dismissed.

11. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

22.01.2024

Ithlesh

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No

(LALIT BATRA)
JUDGE