

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

CWP-19288-2019

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

MAMAN SINGH AND OTHERS

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Argued by: Ms. Meenakshi Sharma, Advocate and
Mr. Sushil Kumar Sharma, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. P.P.Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

Mr. Navneet Singh, Advocate for
Mr. Pravinder Singh Chauhan, Advocate
for respondent – HSIIDC.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. 32/7/2004-4IBI dated 17.09.2004 (Annexure P-3), and, also seek the quashing of notification bearing No.32/7/2004-4IBI dated 27.10.2004 (Annexure P-4). The said notification(s) were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award has also been asked to be quashed, and, set aside.

2. The above espoused writ claims become founded upon the provisions of 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'), whereunders the petitioners become empowered to claim the making of a lapsing declaration.

3. The present petitioners would be entitled to the espoused writ relief(s), as relates to this Court, thus declaring rather lapsed the extantly drawn acquisition proceedings, but only when the provisions embodied in Section 24(2) of the 'Act of 2013', become proved to become breached by the respondents. However, for the reasons to be assigned hereinafter, the asked for relief qua the making of a lapsing declaration rather cannot be accorded by this Court.

4. Primarily for the reason, that the present petitioners would be entitled to coax this Court to declare the launching of the acquisition proceedings under the Act of 1894, to thus become lapsed, but only when the respondent-State, rather had completely failed to, in terms of the verdict rendered by the Constitutional Bench of the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129***, adduce sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for therebys its becoming available for being released to the land losers concerned, besides the said events evidently happening before the coming into force of the 'Act of 2013'.

5. To determine the above, it is necessary to refer to the reply

said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat roznamcha No. 654 dated 09.03.2006 and rapat roznamcha No. 902 dated 31.05.2013 and mutation of the said land has also been sanctioned in favour of HSIIDC vide No. 1660 dated 27.06.2013.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that the total assessed compensation amount, under award dated 09.03.2006 became tendered at the time of announcement of award. Furthermore, it has been stated that as far as the compensation of the land of the petitioners is concerned, despite the same becoming tendered, yet the petitioners not seeking disbursement(s) thereof, leading to the same becoming deposited by the LAC, Gurugram in the Court of Additional District Judge, Gurugram vide letter No. 1133 dated 26.08.2015, for therebys it becoming available for becoming released to the land losers concerned.

7. Furthermore, it has been stated in the reply on affidavit, that the petitioners have also filed reference under Section 18 of the 'Act of 1894'.

8. The effect of the above, is that, thereby the petitioners are deemed to accept the validity of the launching of the acquisition proceedings, whereby they are rather estopped from challenging the validity of the launching of the acquisition proceedings.

9. In consequence, since both the above events took place prior to the coming into force of the 'Act of 2013', resultantly, in terms of the verdict recorded by the Hon'ble Apex Court in **Indore**

entitled to make any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the 'Act of 2013'. In sequel, the above made writ claim is declined.

10. Further, a perusal of para No. 4 of the reply on affidavit, furnished to the writ petition reveals that the petitioner No. 1 alongwith other co-sharers had earlier filed CWP-25159-2014 before this Court seeking release of their lands. This Court vide order dated 04.12.2017 allowed the said writ petition. The relevant part of the said order is extracted hereinafter.

“..In the cases in hand, it is admitted position on record that though the acquisition in question pertains to the year 2004, however, the State deposited the amount of compensation with the Court in the years 2014-2015 after the 2013 Act came into force. The petitioners are the owners of the land in question and they had constructed residential houses and had set up a petrol pump thereon. The petitioners are in physical possession of the acquired land and carrying on their agricultural activities. The respondents had acquired the area in question for planning of residential sector by HSIIDC, but still there is no development in the area.

For the reasons mentioned above, in our opinion, one condition as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land in question has lapsed. However, the State shall be at liberty to withdraw the amount of compensation as deposited with the Court qua the present petitioners.

The State shall also be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners for purchasing/ retaining the land in accordance with law, in case the land in question is required for completion of any project or otherwise. The petitioners shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision.

The writ petitions are allowed.”

11. Feeling aggrieved from the afore orders, the respondent-HSIIDC assailed the said order before the Hon'ble Apex Court by way of filing SLP (C) No. 6503 of 2019. Hon'ble Apex Court vide order dated 12.04.2021 allowed the said SLP in view of the decision of the

Constitution Bench of the Hon'ble Apex Court rendered in **Indore Development Authority's case (supra)**.

12. Therefore, the claim of petitioner No. 1 qua release of land comprised in Khasra Nos. 17//5/2(0-13), 5/3(0-13), 5/4(0-5), 5/5(0-13), 5/6(0-4), 5/7(0-7) and 17/2(7-4) of village Naharpur Kasan under Section 24(2) of the 'Act of 2013' has already been considered and dismissed by the Hon'ble Apex Court.

13. Moreover, it is further indicated in the reply on affidavit that the petitioners never challenged the acquisition proceedings for the rest of the parcels of their lands. Thereby also the instant petition rather is hit by a gross pervasive vice of delays and laches besides by the bar of estoppel created by Order 2 Rule 2 of the CPC. Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

14. Moreover, the plea of the petitioners qua theirs still lawfully retaining possession over the subject lands, is a mis-founded plea, as, the occupation of the petitioners, over the subject lands rather is as trespassers thereovers and the petitioners are required to be lawfully evicted therefrom.

15. 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.

16. 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.

17. No order as to costs.

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

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

29.04.2024

kavneet singh

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