

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-21443-2016
Reserved on: 04.04.2024
Pronounced on: 18.04.2024

SARDAR SINGH AND ANOTHER

.....Petitioners

Versus

STATE OF HARYANA AND ORS.

....Respondents

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

Argued by: Mr. Nitin Jain, Advocate and
Mr. Bikramjit S. Randhawa, Advocate for the petitioners.

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

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioners pray for quashing of notification (Annexure P-2) issued on 27.08.1987, under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”); and notification (Annexure P-3) issued on 25.08.1988, under Section 6 of the Act of 1894.

2. The impugned notifications are sought to be lapsed by the petitioners in view of the 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 & utilization of institutional area in Sector 32, Gurugram.

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 been lapsed under Section 24(2) of the Act of 2013. The said verdict was challenged by the Government of Haryana before the Hon'ble Apex Court by filing SLP (C) No.35445 of 2017, which was converted to Civil Appeal No.2122 of 2023.

5. The learned counsel appearing for 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, Hon'ble Supreme Court remitted the matters back to the High Court 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 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. Reason for not releasing the petitioners' lands/ constructions though, the learned counsel for the petitioners stated that the constructions

being raised on the acquired lands prior to the issuance of a notification under Section 4 of the Act of 1894, became founded upon the factum, that the said constructions were an integral component of the layout plan, besides it is also stated therein, that the development works on the acquired lands have been completed.

8. Since the rejection of the petitioners’ claim for release from acquisition of their lands/constructions became founded on the said constructions, being an integral component of the layout plan. Resultantly when the preparation of the layout plan is done through employments of the experts in the Engineering Cell concerned. Consequently, the expertise employed by the Engineering Cell of the Acquiring Authority concerned, rather is not required to be tinkered with. Since the inclusion of the constructions made over the acquired lands by the present petitioners do thereby further and facilitate the public purpose. Moreover, when the said public purpose is spoken in the reply filed on behalf of the State 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.

9. 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