

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

**CWP-23305-2016
Reserved on: 18.04.2024
Pronounced on: 29.04.2024**

SANDEEP KUMAR AND ANOTHERPetitioners

Versus

STATE OF HARYANA AND OTHERSRespondents

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

Argued by: Mr. Rakesh Nehra, Senior Advocate with
Mr. Chirag Kundu, 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.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. 943-Spl.Cell-83/2040 dated 20.06.1983 (Annexure P-3), and, also seek the quashing of notification bearing No. 1970-Spl. Cell-83/3724 dated 13.02.1984 (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.

However, for the reasons to be assigned hereinafter the said espoused relief cannot be accorded to the present petitioners.

3. From a perusal of para No. 2 of the reply, it is disclosed therein that the petitioners herein are not the owners of the land in dispute and were only in possession of the land in dispute as *Gair Marusi*.

4. Moreover, a reading of para No. 3 of the reply on affidavit, furnished to the writ petition, reveals that the physical possession of the land was taken by the department concerned, and mutation No. 3773 dated 23.09.1986 was duly sanctioned in favour of the State of Haryana. The said land was acquired for allotment of free residential plots to landless/homeless Harijans, members of backward classes and economically weaker sections of the society. After acquisition of the land in question, the same has been allotted to several weaker sections for their residential accommodation. The mutations bearing No. 5090-5095, 5097-5103, 5109-5116, 5127, 5130, 5147, 5149, 5171, 5172 dated 12.07.2004 were duly sanctioned in favour of the said allottees.

5. Further, it is indicated in the reply on affidavit, that some previous land owners filed a writ petition bearing No. CWP-17057-2014 for quashing of the award and acquisition proceedings. The said writ petition was disposed of vide order dated 22.08.2014 with a direction to the respondents concerned, to treat the writ petition of the land losers concerned, as their representation and to decide the same within a period of three months.

6. In pursuance to the said order, respondent No. 5 through an order made on 14.07.2015 (Annexure P-8) dismissed the representation of the petitioners.

7. Thereafter, the land losers concerned again approached this Court through their filing CWP-8624-2015 challenging the dismissal order (Annexure P-8), as made on the apposite representation. Through an order made thereons, on 03.02.2022, the said writ petition became dismissed. The effect of the above is that the issues involved in present petition have already been decided. Resultantly the petitioners who are *Gair Marusi* under the land owners concerned, also become bound by the dismissal verdict(s) as made on the writ petition(s) preferred by the land owners concerned. In sequel, they are estopped to raise the instant writ petition before this Court excepting that if they are proven as *Gair Marusi* over the disputed lands, thereby their being the persons interested in the compensation amount, thus may seek the apportionment(s) thereof, and as such their ventilating the said grievance, if now permissible before the competent authority.

8. Though, the petitioners herein through the instant writ petition further makes a challenge to Annexure P-8. However, when the said order (Annexure P-8), is a well informed and reasoned order and is not cryptically drawn, thereupon, this Court does not deem it fit and appropriate to quash Annexure P-8, or accord the espoused relief to the petitioners herein.

9. Further, a perusal on para No. 4 reveals that the assessed compensation amount under award dated 04.03.1985 became duly tendered and further it has been deposited in the Office Treasury

10. Resultantly, 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***, the acquiring authority has adduced 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 thereby 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'. Therebys also the petitioners cannot claim that a lapsing declaration be made in respect of the lawfully concluded acquisition proceedings.

11. Predominantly also since the petitioners are not the owners of the land in dispute rather they have no *locus standi* to maintain the instant writ petition.

12. Furthermore, the plea of the petitioners qua theirs still lawfully retaining the 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.

Final Order of this Court.

13. 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.

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

(SURESHWAR THAKUR)
JUDGE

29.04.2024
kavneet singh

(LALIT BATRA)
JUDGE

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