

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

CWP-1942-2018

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

NEERAJ KUMAR 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: Mr. Krishan Sharma Bhardwaj, 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(s) bearing No. LAC (G)-82/NTLA/2075 dated 17.11.1982 (Annexure P-3), and, also seek the quashing of notification bearing No. LAC(G)-84/NTLA/10207 dated 10.12.1984 (Annexure P-5). 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 on affidavit, already on record. A reading of the paragraph no. 8 of the said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat No. 33 dated 21.09.1986.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that despite the total amount of assessed compensation, under award No.13 dated 21.09.1986, becoming tendered, yet the petitioners not seeking disbursement(s) thereof, and the same is lying deposited in the LAC account, for therebys it becoming available for becoming released to the land losers concerned.

7. Reiteratedly, 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 Development Authority's case (supra)**, the present petitioners are not 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.

8. Further, a reading of para No. 5 of the reply, on affidavit, it is revealed that the brother of father of the present petitioners had filed objections under Section 5-A of the 'Act of 1894' on 14.12.1982, and, in pursuant to the said objections, land measuring 1K-0M in Khasra No. 8//20/3 and 0K-3M in Khasra No.8//21(8-0), in which houses were built prior to the issuance of notification under Section 4 of the 'Act of 1894' were recommended to be released/left out of the acquisition proceedings.

9. Therefore, the objection(s) as became filed by the brother of father of the present petitioner became decided and even releases were made of some portion of lands, whereons, construction(s) were in existence prior to Section 4 notification, and the remaining land

through the impugned notification(s). Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

10. Furthermore, the father of petitioners filed CWP-6956 of 1986 challenging the acquisition notification(s). However, the said writ petition became dismissed by this Court vide order dated 30.08.2010. Thereafter, the petitioners herein also earlier filed CWP-4952-2015 claiming a relief similar as raised in the instant writ petition. The said writ petition was disposed of with a direction to the petitioners to file a detailed representation.

11. In this regard, though no decision may have been made on the said representation. Nonetheless, even if no decision is made on the said representation, yet irrespective of the above, since the acquiring authority has adduced sufficient/clinching discharging evidence, in respect of the duo parameters as enshrined in **Indore Development's case (supra)**, thereby irrespective of no decision being made by the competent authority, on the petitioners representation, yet does not constrain this Court to grant the espoused relief, as ventilated by the petitioners in the instant writ petition.

12. Moreover, 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.

13. Conspicuously also since it has been stated, in the reply on affidavit, already on record, that the subject lands are an integral

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.

14. 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. No order as to costs.
16. 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