

2024:PHHC:124441-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CWP-21496-2017

Decided on : 19.09.2024

Maina Sundari Jain @ Mewa Sundari

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: None for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, D.A.G., Haryana.

Mr.Ankur Mittal, Advocate
Ms.Kushaldeep Kaur, Advocate, for respondents No.3 to 5.

G.S. Sandhawalia, J.(Oral)

1 Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India is for quashing the order dated 24.07.2017 (Annexure P-12) passed by respondent No.5 on the ground that the petitioner is still in possession of her house in Rect. No.52, Khasra No.8/2 and 9/3 situated in Village Jharsa, Gurugram and compensation has not been received by her and the proceedings stands lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the '2013 Act').

2. The notifications under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') were issued way-back on 10.01.1983 (Annexure P-4) and the date of issuance of Section 6 notification is 07.12.1983 (Annexure P-5), award No.10 was passed on 21.09.1986 and possession was taken and the requisite Rapat No.34 was also entered regarding the land. The order impugned in consequence of the petitioner filing a writ petition bearing CWP-9078-2015 in which directions were issued on 08.05.2015 (Annexure P-9) to decide her representation.

3. The competent authority found that compensation amount has not been taken by the petitioner and the land in question was required for the purpose of development and utilization of land for residential, commercial and institutional Sector 31-32A, Gurugram and is required for 10 meter wide internal road along existing road to be widened 30 meter, one 18 meter wide road, 10 meter wide internal road, 4 numbers plots of one kanal category, 4 number plots of 14 marla category and therefore, the request of lapsing/non-essentiality, was rejected.

4. Even otherwise, on merits, as per the stand of the respondents, the matter would be covered by the Constitution Bench judgment of the Apex Court passed in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496**. The total amount of compensation awarded is Rs.2,33,21,753.50/- out of which, an amount of Rs.2,28,15,169.18/- has been disbursed to the landowners and the rest of the amount of Rs.5,06,584.32/- is available for disbursement. The compensation amount of Rs.15,256.44/- for the land in question was not received by the petitioner and she is at liberty to receive the same and it is stated that the petitioner has not filed any Reference Petition. The land, thus, vested with the State and the twin conditions of violation has not occurred. The petition has been filed after 30 years of the award having been passed.

5. The notice was sent to the petitioner since the counsel has expired. As per the earlier office report, notice has been received back with the report that the petitioner is not residing at the given address.

6. Keeping in view the above background, we have no option but to dismiss the writ petition, in which also, interim order was also passed, protecting the petitioner and the matter had been kept pending only on account of the controversy which was pending before the Apex Court on the issue of lapsing. Accordingly, the interim protection is vacated.

(G.S. SANDHAWALIA)
JUDGE

19.09.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No