

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

CWP-22513-2017
Reserved on: 18.04.2024
Pronounced on: 29.04.2024

MUKESH SHARMAPetitioner

Versus

STATE OF HARYANA AND ORS.Respondents

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

Argued by: Mr. Chanakya Pandit, Advocate
for the petitioner.

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

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for the respondent - HSVP.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner seeks the quashing of notification bearing No. LAC(G)-82/NTLA/2075 dated 17.11.1982 (Annexure P-1), and, also seeks the quashing of notification bearing No. LAC(G)-84/NTLA/10207 dated 10.12.1984 (Annexure P-2). 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 petitioner becomes empowered to claim the making of a lapsing declaration.

3. The present petitioner 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 petitioner 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. 5 of the said reply on affidavit, reveals, that possession over the acquired lands

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that out of the total amount of assessed compensation, under award No.13 dated 21.09.1986, an amount comprised in a sum of Rs.18,69,316.25/-/- rather becomes disbursed to the land losers concerned and the remaining amount comprised in a sum of Rs.8,93,825.75/- is available with the LAC for disbursement to the land losers concerned. Furthermore, it has been stated that as far as the compensation of the land of the petitioner is concerned, he has received the compensation amount of Khasra No. 46//9/1 (0-17) and the compensation amount of remaining land, despite becoming tendered, yet the petitioner 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 loser concerned.

7. 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 petitioner is 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. 3 of the reply, on affidavit, it is revealed that the petitioner had filed objections under Section 5-A of the 'Act of 1894' and after consideration of the objections filed by him, the constructed area measuring 0 kanal 3 marla in Khasra No. 8//20/3 and 21 min was released by the competent authority. The remaining

vacant land was acquired vide award dated 21.09.1986 and the possession thereof was handed over to the beneficiary department.

9. Therefore, when the objection(s) as became filed by the petitioner became decided and even releases of some portion of lands were made in favour of the petitioner, and the remaining vacant land required for furthering the requisite public purpose was acquired through the impugned notification(s). Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

10. Furthermore, a perusal of para No. 9 of the reply on affidavit, reveals that the petitioner had earlier challenged the acquisition proceedings by way of filing CWP-2744 of 2015 and the same was disposed of vide order dated 28.07.2015 by this Court, with a direction to the petitioner to file a detailed and comprehensive representation before the Competent Authority, thus raising therein all pleas as raised in the said writ petition and further the competent authority was directed to pass a speaking order on the apposite representation.

11. In compliance of the said order, the petitioner filed representation before the Competent Authority. However, the same vide order dated 04.01.2017 (Annexure P-6) became rejected by the authority concerned.

12. Though, the petitioner herein through the instant writ petition makes a challenge to Annexure P-6. However, when the said order (Annexure P-6), 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-6 or accord the espoused relief to the petitioner.

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

14. 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.

15. 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.

16. No order as to costs.

17. 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