

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

CWP-23298-2018 (O & M)

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

SUNITA

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Argued by: Mr. Govind Rana, 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.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner seeks the quashing of notification(s) bearing No. 2/6/1-1-IB-II-2001 dated 05.10.2005 (Annexure P-2), and, also seeks the quashing of notification bearing No. 2/6/1-1-IB-II-2001 dated 06.10.2006 (Annexure P-3). 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. Earlier the said writ petition became dismissed by this Court vide order dated 04.11.2020. The aggrieved therefrom assailed the said order by way of filing Civil Appeal No. 8831 of 2021 before the Hon'ble Apex Court. Through an order made on the civil appeal (supra), on 23.07.2021, Hon'ble Apex Court set aside the impugned judgment, as passed by this Court and relegated the parties before the High Court by restoring the writ petition, for reconsideration expeditiously, in accordance with law.

4. 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.

5. 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'.

6. 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. 98 dated 17.10.2008.

7. 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 dated 17.10.2008 becoming tendered, yet the petitioner not seeking disbursement(s) thereof, leading the same to be deposited by the LAC, Sonipat, in the Court of learned Additional District Judge, Sonipat vide letter No. 5880 dated 06.04.2015, for therebys it becoming available for becoming released to the land losers concerned.

8. 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.

9. Further, a reading of para No. 5 of the reply, on affidavit, it is revealed that the petitioner did not prefer any objections in terms of Section 5-A of the 'Act of 1894', before the Collector concerned. In the face of abandonment of the said opportunity by the petitioner, to thus prefer objections under Section 5-A of the 'Act of 1894', before the

to waiver of the said granted opportunity, besides fosters a further conclusion, that the petitioner become estopped to claim before this Court, that either she became forestalled to raise objections or the said objections were summarily rejected.

10. Moreover, the plea of the petitioner qua her 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 therefroms.

11. 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.

12. 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.

13. No order as to costs. 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