

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

CWP-2432-2018

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

SATPAL 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. Sakal Sikri, 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. LAC(G)-NTLA-2003/937 dated 26.08.2003 (Annexure P-4), and, also seek the quashing of notification bearing No. LAC(G)-NTLA-2004/1073 dated 10.08.2004 (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

said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat roznamcha No. 705 dated 04.08.2006 and the mutation of the land in question has been entered in favour of the beneficiary department.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that the total amount of assessed compensation, in terms of award No.8 dated 04.08.2006, comprised in sum of Rs. 1,00,42,320/- has been paid to the petitioners. Furthermore, the petitioners are constantly availing the Annuity @ Rs. 15000/- per acre, which is to be paid to the petitioners for 33 years from the date of award in question.

7. Therebys, 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.8 of the reply, on affidavit, it is revealed that the petitioners 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 petitioners, to thus prefer objections under Section 5-A of the 'Act of 1894', before the Collector concerned, thereby theirs said abandonment, thus tantamounts to waiver of the said granted opportunity, besides fosters a further conclusion, that the petitioners become estopped to claim before this

Court, that either they became forestalled to raise objections or the said objections were summarily rejected.

9. Furthermore, the petitioners had earlier challenged the acquisition proceedings by way of filing CWP-6993-2007 before this Court, which was dismissed by this Court vide order dated 18.08.2008. The present petitioners challenged the aforesaid orders before the Hon'ble Supreme Court by way of filing SLP (C) No. 9429 of 2009, which was also dismissed by the Hon'ble Apex Court vide order dated 24.07.2009. Resultantly therebys the institution of the instant petition also becomes estopped by the principle of constructive *res judicata*.

10. Moreover, the plea of the petitioners qua theirs still lawfully retaining 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.

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.

14. 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