

134 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-26452-2017

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

MADAN SINGH

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Argued by: Mr. Sachin Mittal, Advocate and
Mr. Parth Sharma, 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
Ms. Kushaldeep Kaur, Advocate
for respondent No. 4 - HSIIDC.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner seeks for making a mandamus upon the respondent concerned, qua release of the subject lands acquired vide notification bearing No. 32/1/2003-4 IHI dated 29.01.2003 (Annexure P-1), and, notification bearing No. 32/1/2003-4 IBI dated 28.01.2004 (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').

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 same reveals that the petitioner earlier never challenged the acquisition proceedings.

Court by way of filing CWP-1365-2006, for release of their respective shares in the lands in dispute. In the said writ petition, *status quo* as regards to dispossession was in operation vide order dated 30.01.2006. The said writ petition became decided by this Court in terms of order dated 07.11.2016 passed in CWP-856-2006 and other connected petitions and the acquisition proceedings were declared to be lapsed.

6. Feeling aggrieved from the aforesaid order, HSIIDC approached the Hon'ble Apex Court by way of filing SLP (C) No. 18355-2017. The said SLP became allowed vide order dated 03.07.2017 and the Hon'ble Apex Court remitted the matters back to this Court to decide the writ petition(s) afresh except the applicability of Section 24(2) of the 'Act of 2013'. However, the Hon'ble Apex Court ordered that the status quo with regard to the property in dispute shall be maintained.

7. Further, it is stated in the reply on affidavit that due to the said interim order being operational qua the subject lands, the possession of the subject lands, in which the petitioner is also one of a co-sharer could not be taken.

8. 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 assessed compensation, under award dated 27.01.2006, an amount comprised in a sum of Rs. 226.42 crores rather became disbursed to the land losers concerned. Furthermore, it has been stated that as far as the compensation of the land of the petitioner is concerned, despite the same becoming tendered, yet the petitioner not seeking disbursement(s) thereof, and the same is lying deposited in the

account of DRO-cum-LAC, Gurugram, for thereby it becoming available for becoming released to the land loser concerned.

9. Even though one amongst the duo of parameters enshrined in the verdict recorded by the Hon'ble Apex Court in **Indore Development Authority's case (supra)**, becomes complied, inasmuch as, only the compensation amount, as became determined under the award, becoming deposited, thus for thereafter's the same being available for being released to the land losers concerned, but when the other parameter also requires conjoint thereto compliance, inasmuch as, rapat possession becoming also assumed over the disputed lands. However, non compliance, if any, to the said parameter rather cannot work in favour of the petitioner, as the Hon'ble Apex Court while disposing the SLP (supra), as preferred by the co-sharers of the petitioner, had remitted the subject writ petition to this Court to decide it afresh, excepting the applicability of Section 24 (2) of the 'Act of 2013'.

10. Moreover, since the Hon'ble Apex Court while making the said order of remand had directed *status quo* with regard to the property in dispute. Therefore, when the orders, whereby there was either stay against dis-possession of the present petitioner from the disputed lands or there was order for *status quo* being maintained in respect of the property in dispute. Resultantly, the above order(s), but when well precluded, the acquiring authority to physically assume possession over the disputed lands, is rather of no relevance, given the said continuance of possession of the land losers concerned, over the disputed lands, thus being in terms of order(s) (supra). Resultantly, in other words, when

assume possession over the subject lands, thereby non assumption of possession either physical or through a rapat being drawn rather does not negate the legality of the acquisition proceedings as became launched.

11. Predominantly also the fact (supra) when ultimately devolves upon the petitioner claiming the making of a lapsing declaration, yet when the Hon'ble Apex Court when making the order of remand in SLP (supra) rather has directed to decide afresh excepting the applicability of Section 24 (2) of the 'Act of 2013'.

12. Resultantly, the said order made in a co-sharers SLP, thus also binds the present petitioner. The reason being that with the present petitioner being a co-sharer alongwith the other co-shares, who accessed the Hon'ble Apex Court, through the filing of the SLP (supra), and whereons the said order was made, thus with the above legal overtones being borne. Resultantly, the present petitioner is also bound by the said order.

13. In consequence, if even without the dis-memberment of the joint lands taking place, this Court yet qua the un-dismembered joint piece of land, thus make a lapsing declaration, thereby this Court would be violating the norm relating to joint tenancy, whereby till the dis-memberment of the joint estates takes place, thereupto all co-owners holding unity of title and community of possession in such jointly owned lands.

14. Moreover, even if the petitioner did not access the Hon'ble Apex Court, thereby, his said omission also tantamounts to his therebys acquiescing to the verdict or to the outcome of the SLP, whereby he is

in the apposite SLP, therebys he is not bound by the outcome (supra), as made on the SLP.

15. Resultantly, in terms of the verdict recorded by the Hon'ble Apex Court in **Indore Development Authority's case (supra)**, and for reasons (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.

16. Moreover, it is further indicated in the reply on affidavit, that the petitioner never challenged the acquisition proceedings for his acquired share of land excepting his claiming the making of a lapsing declaration in terms of Section 24 (2) of the 'Act of 2013'. Resultantly the challenge to the afore, has been made after almost fourteen years elapsing, since the launching of acquisition proceedings under the 'Act of 1894'. Thereby also the instant petition rather is hit by a gross pervasive vice of delays and laches. Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

17. 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.

18. 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

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.

19. 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.

20. No order as to costs.

21. 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