

In the High Court of Punjab and Haryana at Chandigarh

(231)

CWP No. 5605 of 2016 (O&M)

Date of Decision: 16.4.2024

Bhim Sain (deceased) through LRs.

.....Petitioners

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present: Mr. Shubham Saroha, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, the petitioner (since deceased) seeks the quashing of notification bearing No. LAC(H)-2005/288 dated 29.8.2005 (Annexure P-5), and, also seeks the quashing of notification bearing No. LAC(H)-2006/324 dated 20.9.2005 (Annexure P-3). The said notifications were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award bearing No. 1 dated 3.8.2007 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 (since deceased) becomes empowered to claim the making of a lapsing declaration.

3. Prior to the institution of the instant petition before this Court, the petitioner Bhim Sain (since deceased) had instituted CWP No. 11762 of 2007 (Annexure P-5) before this Court. On the said writ petition, a decision was made on 19.5.2008 whereby the writ petition (supra) was dismissed. However, on the apposite SLP becoming raised thereagainst by the aggrieved, thus before the Hon'ble Apex Court, the Hon'ble Apex Court made the hereinafter extracted verdict.

“Learned counsel appearing for the appellant seeks permission to withdraw the appeal so as to avail other remedy, if any, available in law. Permission granted.

Appeal stands disposed of as withdrawn”

4. Consequently, in terms of the above liberty becoming assigned to the present petitioner (since deceased), the instant writ petition has been instituted before this Court.

5. 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 on anvil of the provisions embodied in Section 24(2) of the Act of 2013, becoming 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 cannot be accorded by this Court.

6. 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 thereby 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.

7. To determine the above, it is necessary to refer to the reply on affidavit, which has been placed on record today before this Court, by the learned State counsel. A reading of the paragraph 6 of the said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat No. 984 dated 3.8.2007. Moreover, a reading of paragraph 7 of the reply on affidavit, also discloses that the compensation, as became determined in respect of the subject lands, has been tendered in the Court of the learned Additional District Judge, Hisar, and, as such the said tendered compensation amount is available for becoming disbursed to the land losers concerned. 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. Conspicuously also since it has been stated, in the reply on affidavit, placed on record by the learned State counsel, 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 Courts finds no merit in the instant petition, and, is constrained to dismiss it.

9. Accordingly, the instant petition is dismissed. However, liberty is reserved to the present petitioner to access the Civil Court remedies for therebys his unacquired lands becoming provided easementary rights, thus on the basis of necessity or prescription.

10. Pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 16, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No