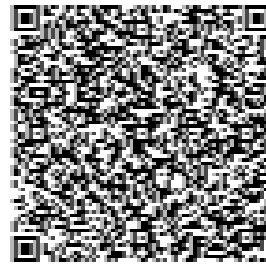


2024:PHHC:092827-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(109)

CWP-28955-2018

Decided on: 23.07.2024

Gurwinder Singh & another

.....Petitioner (s)

Versus

State of Punjab & others

....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Deepak Aggarwal, Advocate for the petitioner (s).

Mr.Shekhar Verma, Addl.A.G., Punjab.

G.S. Sandhawalia, J. (Oral) :

1. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India, is to the notification dated 28.02.1991 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') and the subsequent notification dated 28.02.1991 (Annexure P-3) issued under Section 6 read with Section 17(2) of the Act whereby the urgency clause was invoked for the construction of the Sullage Carrier (Open Pacca Channel) along Bathinda Distributory. Further prayer made is for not acquiring the land of the petitioners in view of Section 24(2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013.

2. The present writ petition was filed in the year 2018 after the land had already been put to use and only on account of the issue of lapsing. A perusal of the photographs which have been appended would go on to show that the purpose for which the acquisition was sought has

already been attained and drains have already been raised in the land of the petitioners, which would be clear from the award dated 25.11.1991 (Annexure P-4) and it has also been recorded that farmers have voluntarily surrendered possession. The land acquired was measuring 10 to 12 feet width of which possession was taken and as per the award, assessment had been made @ Rs.18,000/- per acre. The award mentions that cost of super-structures and also the percentage of solatium along with interest on account of the delay from 10.03.1991 to 25.11.1991, i.e. the date when possession was taken and the date of the award.

3. In such circumstances, it is apparent that the procedure has been duly followed as per the Act. Only on account of the Section 4 notification of the 2013 Act, the writ petition was filed. The Apex Court has categorically held in **Indore Development Authority Vs. Manoharlal & others, AIR 2020 SC 1496**, that the belated challenge could not be raised in view of the provisions of 2013 Act. Acquisition was done while invoking the urgency clause in the year 1991 and no effort was made to challenge the acquisition at that point of time. The photographs placed on record only goes on to show that the land was also put to use before the acquisition on the basis of consensus.

4. Accordingly, we are of the considered opinion that there is no illegality or infirmity in the procedure adopted for acquisition. Resultantly, in view of the above discussion, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

23.07.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No