

2024:PHHC:091096-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

CWP-30481-2018

Decided on: 19.07.2024

Parkashi

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

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

Present: None for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, DAG, Haryana.

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

1. In compliance of the order dated 22.05.2024, costs have been duly deposited and photocopy of the receipt of the same has been placed on record.

2. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India is to the notification dated 12.05.1995 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') and the subsequent notification dated 10.05.1996 (Annexure P-4) issued under Section 6 of the Act and the award no.1 dated 24.04.1998 (Annexure P-5) and order dated 27.11.2018 (Annexure P-8) whereby respondent No.3 issued the notice of vacation/demolition of the residential house. The land of the petitioner falling in Village Bahadurgarh, Hadbast No.38 and Parnala, Hadbast No.36, Tehsil Bahadurgarh, District Rohtak was sought to be acquired for the public purpose namely for the development and utilization of land as residential and commercial area for Sectors 9 & 9/A, Bahadurgarh, Rohtak. The writ petition has been filed in the year 2018 on the issue that under Section 24(2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013, the proceedings have lapsed and possession has not been taken and compensation amount has not been paid.

3. A perusal of the award dated 24.04.1998 (Annexure P-5) would go on to show that no construction had been raised in the land at the time of acquisition and compensation has also been paid by respondent No.4. It has further been mentioned that an appeal was filed which was also dismissed by the Lower Appellate Court on 13.07.2018 and RSA had been filed.

4. State, in its reply filed, would go on to show that it has been mentioned that Civil Suit was filed for permanent injunction and that land measuring 200 sq.yards falling in Khasra No.3836/2072 was lying vacant at the time of issuance of Section 4 notification and the amount of compensation of Rs.17089/- was received in the year 1999 but was refunded on 29.12.2005, which is also affecting plots of 8 marla size (3 in number) and 12 meter wide road. It is mentioned that vide Rapat Rojnamcha no.313 dated 24.04.1998, mutation in favour of the beneficiary department had already been entered vide mutation no.8212A.

5. The order dated 29.11.2018, passed in RSA-6333-2018 reads as under:

“After arguing for some time, learned counsel for the appellant seeks to withdraw this appeal with a liberty to move before the competent forum for redressal of his grievance with respect to compensation amount.

This appeal is dismissed as withdrawn.

However, it is made clear that this Court has not examined, formed or expressed any opinion with respect to any aspect other than the judgment and decrees passed by the Courts below. This order will not leave any vested right to the appellant to move before any authority and, as such, she can move only if the same is permissible in law.”

6. It is thus apparent that the petitioner has lost in the litigation in civil proceedings and therefore, challenge on the ground that proceedings have lapsed, cannot be sustained, keeping in view the fact that the writ petition was filed on 30.11.2018, much later at point of time. In view of the law laid down by the Apex Court in **Indore Development Authority Vs. Manoharlal & others, AIR 2020 SC 1496**, challenge at a belated stage on ground of lapsing of the proceedings, cannot be sustained.

It is also pertinent to notice that the amount of compensation had been duly taken but again deposited and therefore, there is no valid ground to challenge the acquisition proceedings. State is also justified on account of the fact that for the land, compensation amount had been duly deposited but the same has been picked up by the petitioner and refunded. Under Section 18(1) of the HUDA Act, the order dated 27.11.2018 which is subject matter of challenge, the respondents have a right to get vacated from the person who is in unauthorized occupation or has constructed building on the land acquired.

7. The Learned Single Judge has also dismissed the Regular Second Appeal and liberty was granted to agitate before the authorities, if any legal vested right is there. In such circumstances, this Court is of the opinion that further adjudication is not to be conducted in these proceedings. It is also pertinent to mention that counsel for the petitioner did not put in appearance on the last three occasions and today also, position is the same.

8. Accordingly, in view of the above discussion, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

19.07.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No