

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

CWP-9743-2017

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

ARI SUDAN CHADHA AND ANR.

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Argued by: Mr. Vivek Gupta, 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.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for the respondent - HSVP.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. 32/1/2003-41B1 dated 29.01.2003 (Annexure P-1), and, also seek the quashing of notification bearing No. 32/1/2003/41B1 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'). 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. 319 dated 27.02.2006 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 out of the total amount of assessed compensation, under award dated 27.02.2006, thus 72.53% of the land losers concerned, have lifted the compensation amount. Furthermore, it has been stated that as far as the compensation of the land of the petitioners is concerned, despite the same becoming tendered, yet the petitioners not seeking disbursement(s) thereof, and the same is lying deposited in the Office of the DRO-cum-LAC, Gurugram, for therebys it becoming available for becoming released to the land losers concerned.

7. 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 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. 6 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

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 filed CWP-13441-2007 before this Court, which was dismissed as withdrawn vide order dated 28.08.2007 with liberty to approach the appropriate authority under Section 48 of the 'Act of 1894'. Thereafter, the representation filed by the land losers concerned, in terms of the said verdict became rejected by the Authority concerned, through an order made on 18.07.2008 (Annexure P-6), on the ground that the acquisition proceedings stand completed in all respects. The said rejection order (Annexure P-6) never became assailed by the petitioners, thereby it acquires conclusive and binding effect. Therefore, the petitioners now cannot contend that the acquisition proceedings became lapsed.

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

13. No order as to costs.

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

29.04.2024

kavneet singh

(LALIT BATRA)
JUDGE

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