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

CWP-8303-2018

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

M/S RADHIKA HANDLOOM AND OTHERS

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

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

Argued by: Mr. Jasmer Singh Rozera, 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.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. LAC(P)-NTLA-89/1001 dated 10.05.1989 (Annexure P-5), and, also seeks the quashing of notification bearing No.LAC(P)-NTLA090/2490 dated 09.05.1990 (Annexure P-7). 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. 437 dated 07.05.1992, and mutation No. 18066 dated 15.10.2002 has been sanctioned 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 07.05.1992, an amount comprised in a sum of Rs. 8,31,04,049/- rather became disbursed to the land losers concerned. Furthermore, it has been stated that as far as the compensation of the land of the petitioners is concerned, petitioner No. 2-Munish Kumar has lifted the compensation amount qua his share in Khasra No. 675/2, 676 min, and the rest of compensation amount due to the petitioners, despite the same becoming tendered, yet the petitioners not seeking disbursement(s) thereof, and the same is lying deposited in the LAC account, for therebys it becoming available for becoming released to the land losers concerned.

7. Therefore, as such when the subject lands yet remained unpartitioned by metes and bounds, and with one of them choosing to receive compensation, thereby, the other co-sharers in the acquired lands, do also become estopped to challenge the acquisition proceedings. Conspicuously when thereby there would be breach of the principle of unity of title and community of possession, inhering the joint estates of the co-owners.

8. In consequence, since both the above events took place prior to the coming into force of the 'Act of 2013', resultantly, in terms

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.

9. Furthermore, a perusal of para No. 4 of the reply on affidavit, furnished to the writ petition reveals that after the issuance of Section 4 notification, petitioners No. 2 and 4 filed objections under Section 5-A of the 'Act of 1894' regarding Khasra No. 675/2 (2-14) and 676 (2-14) and petitioners No. 1 to 4 had filed objections regarding Khasra Nos. 662 min, 663, 664 min 677, 678 total measuring 15B-02B. Further, it has been stated that during the survey conducted by the department, a boundary wall was found to be constructed on Khasra Nos. 675/2 and 676, thus with covered area 100' x 50', and two factory shed and boundary wall were also found existing on Khasra Nos. 662 min, 663, 664 min 677, 678 but the said factories were not running at the time of survey. However, after considering the report of LAC, the land as afore stated was included in the declaration issued under Section 6 of the 'Act of 1894'.

10. Be that as it may, the land of the petitioners measuring 0B-13B, vide memo No. 2802 dated 06.05.1992 issued by the Office of Director, Urban Estate Department, Chandigarh, was thus released rather from Khasra No.676, but after the issuance of a Section 6 notification.

11. The effect of the above, is that, the objections as became preferred by the petitioners became duly considered and rejected.

Consequently, some portions of the land were even released in favour

petitioners accept the said releases and yet claim that the subject lands be also released, therebys, unless they had not accepted the earlier releases, thereupon, they could well claim the makings of the releases of the subject lands. However, when they accept some of the releases and yet claim releases of the subject lands, thereby they but impermissibly reprobate from an earlier made approbation. Resultantly, the acquisition notification(s) and subsequent thereto passed award do not require any interference.

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

13. 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.

14. 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.

15. No order as to costs.

16. 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

(LALIT BATRA)
JUDGE

kavneet singh

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