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

CWP-8481-2018

Reserved on: 18.04.2024

Pronounced on: 29.04.2024

KARTAR SINGH 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. S.P.Khatri, 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 notification bearing No. 32/22/2005-41BI dated 30.06.2005 (Annexure P-4), and, also seeks the quashing of notification bearing No. 32/22/2005-41BI dated 05.07.2006 (Annexure P-5). 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

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 on affidavit, already on record. A reading of the paragraph no. 4 of the said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat roznamcha No. 849 dated 27.06.2008,

and the mutation 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 the total amount of assessed compensation, under award dated 27.06.2008, became tendered at the time of announcement of the award and the petitioners have received the entire amount of compensation. Furthermore, it has been stated that the petitioners also filed application under Section 18 of the 'Act of 1894' before the learned Reference Court for enhancement of compensation. The said reference petition was dismissed and the said dismissal order was assailed by filing RFA No. 1186 of 2013, before this Court which was allowed on 05.07.2019, and the enhanced compensation made by this Court, has also been received by the petitioners.

7. The effect of the above, is that, thereby the petitioners are deemed to accept the validity of the launching of the acquisition proceedings, and thereby they are rather estopped from challenging the validity of the launching of the acquisition proceedings.

8. 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.

9. The petitioners had earlier filed CWP-16334-2015, which was dismissed as withdrawn vide order dated 10.08.2015 with liberty to the petitioners to avail the alternative remedy in accordance with law.

10. In pursuance of the said order, the petitioners had filed a representation on 03.09.2015 before the Administrator, Zonal Authority, HSIIDC. Further, it has been averred that till today no action has been taken by the authority.

11. In this regard, though no decision may have been made on the said representation. Nonetheless, even if no decision is made on the said representation, yet irrespective of the above, since the acquiring authority has adduced sufficient/clinching discharging evidence, in respect of the duo parameters as enshrined in **Indore Development's case (supra)**.

12. Moreover, since the petitioners have received the entire amount of the compensation assessed by the Collector concerned besides have also received the compensation, as became enhanced by this Court while making a decision on the RFA (supra), thereby irrespective of no decision being made on the representation of the petitioners by the competent authority, thus also does not constrain this Court to grant the espoused relief, as ventilated by the petitioners in the instant writ petition.

13. 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.

14. 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.

15. 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.

16. No order as to costs.

17. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

29.04.2024

kavneet singh

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