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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No.2122 of 2024 (O&M)
Date of Decision: 04.09.2024

HUDA now Haryana Shehri Vikas Pradhikaran and others

…..Appellants.

Versus

Anita Rewal

.....Respondent.

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

*****

Present:- Mr. Ankur Mittal, Addl. A.G, Haryana with
Mr. Saurabh Mago, DAG, Haryana and
Ms. Kushaldeep Kaur, Advocate
for the appellants.

Mr. Rajiv Kataria, Advocate
for the respondent.

__G.S. SANDHAWALIA, J.(Oral)__

__CM No.5017-LPA of 2024__

This is an application filed on behalf of the applicants-appellants for leave to appeal for grant of permission to applicant i.e. Haryana Shehri Vikas Pradhikaran through its Administrator to file the accompanying Letters Patent Appeal.

Keeping in view the averments made in the present application, which is supported with the affidavit of applicant-appellant No.1-Administrator, the same is allowed.

CM No.5016-LPA of 2024

This application has been filed on behalf of the applicants-appellants for seeking condonation of delay of 258 days in filing the appeal on account of the fact that they were not party-respondents in the writ petition.

Notice in the application.

Mr. Kataria, accepts notice on behalf of the respondent-land owner.

Keeping in view the averments made in the present application, which is supported with the affidavit of the official of the applicant-appellant No.1, we deem it fit to allow the same.

Accordingly, the application is allowed and delay of 258 days in filing the appeal is condoned.

LPA No.2122 of 2024

Challenge in the present Letters Patent Appeal is raised to the judgment dated 16.11.2023 passed by learned Single Judge, whereby the writ petition bearing ***CWP No.5461 of 2022*** filed by the respondent land owner was allowed.

2. Learned Single Judge, in principle, directed the respondents to release the full amount of compensation in favour of the respondent, upon calculating the statutory interest as payable under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the 2013 Act'), while referring in particular to Section 80 thereof and to disburse the same within

a period of 08 weeks from the date of passing of the judgment.

3. Mr. Mittal has raised an argument, though academic purpose, to the extent that whether the payment is to be made under the provisions of the 2013 Act in view of the restrictive application given to Section 24 thereof by the judgment of the Apex Court in ***Haryana State Industrial and Infrastructure Development Corporation Limited and others Versus Deepak Aggarwal and others, (2023) 6 SCC 512***. Section 24(1)(a) of the 2013 Act reads as under:

> *"24.* ***Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.****–(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—*
> *(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply."*

4. In principle, the interest had become payable to the respondent-land owner on account of the fact that a sum of Rs.5,82,25,592/- was released in favour of the respondent on 26.11.2021, though the land had been taken over by the appellants on passing of the Award on 02.08.2016 vide Rapat No.1067. So far the delayed payment is concerned, there is no quarrel on the set proposition of law regarding the entitlement of the land owner for the statutory rate of interest which is analogous to the Land Acquisition Act, 1894 (for short 'the 1894 Act').

5. The legal issue which is likely to arise in view of the

observations made by learned Single Judge is on account of the fact that the notification was dated 30.12.2013 under Section 4 of the 1894 Act, prior to the coming into force the 2013 Act w.e.f. 01.01.2014 and the notification dated 06.08.2014 under Section 6 of the 1894 Act lead to the Award (Annexure P-1) passed on 02.08.2016. It is not disputed that 100% solatium has been granted vide the Award (Annexure P-1).

6. Thus, in sum and substance, the writ petitioner as such has got all the benefits under the 2013 Act. Learned Single Judge has directed the payment of the statutory rate of interest which has become payable. The issue as to the determination of compensation has been discussed by the Apex Court under Section 24(1)(a) of the 2013 Act in the above-mentioned judgment. It is in these circumstances, it is submitted on behalf of the appellants that the land owner cannot be permitted to say at a later point of time that the Award had been passed under the provisions of the 2013 Act and he is entitled for other benefits and once the determination has already been done to which there was no challenge raised at any point of time and only the benefits of interest have been sought by filing the writ petition.

7. The relevant paragraphs No.37 to 41 of the judgment passed by Hon'ble Supreme Court, limiting the right to determination of compensation under the 2013 Act has been highlighted, in ***Haryana State Industrial and Infrastructure Development Corporation Limited and others Versus Deepak Aggarwal and others' case (supra)*** read as under:-

> *"37. Now, we will consider the other common questions involved in the captioned appeals. They*

pertain to the questions as to whether Section 4 notification issued under the L.A. Act prior to 01.01.2014 (date of commencement of 2013 Act) could continue or survive after 01.01.2014 and, as to whether Section 6 notification under the L.A. Act could be issued after 01.01.2014.

38. We think that while considering those questions we will have to bear in mind the purposes and the legislative history of the 2013 Act and also the intention of the legislature in drafting the same in the manner in which it now exists. We have already dealt with those aspects. One crucial aspect discernible from Section 24(1)(a) has also to be taken note of in this context. The combined effect of Section 24(1) and clause (a) thereof is that if land acquisition proceeding under the L.A. Act was initiated prior to 01.01.2014, the date of coming into force of the 2013 Act, and if it was not culminated in an award under Section 11 of the L.A. Act, then all the provisions of the 2013 Act relating to the determination of compensation should apply to such acquisition proceedings. Thus, it is obvious that in case of non-passing of an award in terms of Section 11 of the L.A. Act where the acquisition proceedings have been initiated prior to 01.01.2014, all provisions under the

<u>2013 Act relating to the determination of compensation alone would apply to such acquisition proceedings</u>. In other words, it would mean that in such circumstances the land acquisition proceedings should continue, but all the provisions relating to the determination of compensation under the 2013 Act alone will be applicable to such proceedings, meaning thereby, <u>the 2013 Act would come into play only at that stage</u>. There can be no doubt with respect to the position that between the initiation of land acquisition proceedings by issuance and publication of notice under Section 4(1) of the L.A. Act and the stage at which compensation for the acquisition calls for determination, there are various procedures to be followed to make the acquisition in accordance with the law. The question is when Section 24(1) of the 2013 Act makes it clear with necessary implication that all provisions of the 2013 Act relating to the determination of compensation alone would be applicable to such proceedings initiated under the L.A. Act but, not culminated in an award, how the procedures are to be regulated during the intervening period till the proceedings reach the stage of determination of compensation. There cannot be any uncertainty on that aspect. The procedures to be undertaken and the manner

in which they are to be regulated cannot remain uncertain. They are conducted either in the manner provided under the L.A. Act or in the manner provided under the 2013 Act. But then, in view of Section 24(1)(a), the provisions relating to the determination of compensation alone can be applied to such proceedings <u>or in other words, there is only a restricted application of the provisions of the 2013 Act in relation to such proceedings</u>. The inevitable conclusion can only be that what is applicable to the various procedures to be undertaken during the period up to the stage of determination of compensation are those prescribed under the L.A. Act. We have no doubt that without such a construction, the provisions under Section 24(1)(a) would not work out, in view of the restrictive application of the 2013 Act. It is in this context that the decision in Ambica Quarry Works' case (supra) assumes relevance. Any construction of the said provision without taking into the legislative intention, referred hereinbefore would defeat the legislative intention as also the very objects of the 2013 Act. Certainly, it would not be in public interest to allow such proceedings to lapse or allow the authorities to follow the procedures during such period according to their sweet will. A uniform *procedure has to be followed in respect of such proceedings. The acquisitions initiated for public purposes should go on in a fair and transparent manner with a view to achieve the intent and purport of the 2013 Act and at the same time, the persons affected shall have definite idea about the manner in which procedures would be conducted. The Party 'B' would not be justified in describing such situations of necessity and the consequential application of provisions which are actually saved on account of the construction of Section 24 as an attempt to bring the words expressly employed in Section 24(1)(b) and absent in Section 24(1)(a), by indirect method to Section 24(1)(a) of the 2013 Act. The aforesaid conclusions and findings would make the contentions of Party 'B' that Section 4(1) notification issued prior to 01.01.2014 could not survive after 01.01.2014 and also that Section 6 notification under the L.A. Act could not be issued after 01.01.2014, unsustainable. In fact, all such procedures and formalities shall be continued till the determination of compensation by applying all the provisions for determination of compensation, under the 2013 Act. <u>A contra-construction, in view of the restrictive application of the provisions to such proceedings during</u>*

its continuance, would make the provisions under Section 24(1)(a) of the 2013 Act unworkable.

39. Having decided the common questions as above we are of the view that all the other issues involved in the individual appeals have to be considered on their own merits and subject to this judgment in respect of all the stated common questions.

40. To conclude, we hold that for the purposes of sub-section (1) of Section 24 of the 2013 Act, the proceedings under the L.A. Act shall be treated as initiated on publication of a notification under sub-section (1) of Section 4 of the L.A. Act. We further hold that when Clause (a) of sub-section (1) of Section 24 of the 2013 Act is applicable, the proceedings shall continue as per the L.A. Act. However, only for the determination of compensation amount, the provisions of the 2013 Act shall be applied.

41. We have already observed that other issues are also involved in the captioned appeals besides the common questions and issues which we have answered in this judgment. Hence taking note of involvement of other legal and factual issues in these appeals shall be listed before appropriate Bench for disposal on their own merits."

8. Mr. Kataria has fairly submitted that a sum of Rs.1,85,00,000/- has been received by the respondent-land owner as interest by seeking implementation of the judgment passed by learned Single Judge and there is a contest to the extent that the said amount is deficient.

9. Resultantly, we dispose of the present appeal by deleting the words as such whereby reference has been made regarding the statutory interest payable under the provisions of the 2013 Act in particular by reference to Section 80 thereof and is substituted with Section 34 of the 1894 Act, in view of the consensus arrived at between the parties.

10. Needless to say that we have not adjudicated on the issue of deficiency of the amount of interest payable since the matter is already pending before the Contempt Court.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 04, 2024
Yag Dutt

Whether speaking/reasoned: Yes
Whether Reportable: No