

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

**CWP-28531-2017
Reserved on: 18.04.2024
Pronounced on: 29.04.2024**

MENAWATI JAIN @ NAINAWATI JAINPetitioner

Versus

STATE OF HARYANA AND ANR.Respondents

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

Argued by: Mr. S.P.Khatri, Advocate
for the petitioner.

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 petitioner seeks the quashing of notification bearing No. LAC (R)-2009/NTLA/119 dated 15.04.2009 (Annexure P-6), and, also seeks the quashing of notification bearing No. LAC(R)-2010/NTLA/155 dated 13.04.2010 (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,

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 petitioner becomes empowered to claim the making of a lapsing declaration.

3. The present petitioner 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 petitioner 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 No. 228 dated 08.09.2011.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that despite the total amount of assessed compensation, under award dated 08.09.2011, becoming tendered, yet the petitioner not seeking disbursement(s) thereof, and the same is lying deposited with the LAC Rohtak, for therebys it becoming available for becoming released to the land loser 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 petitioner is 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. 4 of the reply, on affidavit, reveals that the petitioner has earlier filed CWP-16762-2011 before this Court seeking quashing of the acquisition notification(s) for release of the subject lands. Further, the plea of discrimination as raised in the instant writ petition was also raised thereins. The said petition became dismissed by this Court vide order dated 23.04.2013 (Annexure P-11). Thereby also, the present petition is barred by the norm of constructive *res judicata*.

9. Further, a reading of para No. 6 of the reply, on affidavit, it is revealed that the petitioner did not prefer any objections in terms of

face of abandonment of the said opportunity by the petitioner, to thus prefer objections under Section 5-A of the 'Act of 1894', before the Collector concerned, thereby her said abandonment, thus tantamounts to waiver of the said granted opportunity, besides fosters a further conclusion, that the petitioner become estopped to claim before this Court, that either she became forestalled to raise objections or the said objections were summarily rejected.

10. Moreover, the plea of the petitioner qua her still lawfully retaining the possession over the subject lands, is a mis-founded plea, as, the occupation of the petitioner, over the subject lands rather is as trespassers thereovers and the petitioner is 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