

**112 + 113 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

Date of Decision : 01.02.2024

1. CWP-25853-2023

SHRI BHAGWAN AND OTHERSPetitioners

Versus

STATE OF HARYANA AND OTHERSRespondents

2. CWP-25854-2023

CHANNO DEVI AND OTHERSPetitioners

Versus

STATE OF HARYANA AND OTHERSRespondents

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

Present : Dr. Deepak Jindal, Advocate
for the petitioner(s) (in both the cases).

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for respondent - H.S.V.P.

SURESHWAR THAKUR, J. (Oral)

1. Since both the writ petition(s) arise from common theretos notification(s) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'), besides also arise from common theretos declaration(s) issued under Section 6 of the 'Act of 1894'. Therefore, both the writ petition(s) are amenable for becoming decided through a common verdict.

2. The said notification(s) became respectively issued on 11.04.2002 and on 08.04.2003.

3. Through the instant writ petition(s), the petitioner(s) herein ask for a mandamus being made upon the respondents concerned to make a notification for thereby de-notifying the petition lands from acquisition.

4. The above asked for mandamus is premised upon the provisions embodied in Section 101 A of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short refer to as the 'Act of 2013'), as became incorporated in the 'Act of 2013', through Haryana Act No. 21 of 2018.”

5. However, for the reasons to be assigned hereinafter, the said asked for mandamus cannot be made upon the respondents concerned.

6. Principally for the reason that the instant writ petition(s) are respectively the third (in **CWP-25853-2023**) and the second (in **CWP-25854-2023**) round of litigations, which became embarked upon, by the present petitioner(s).

7. The present petitioner(s) (in **CWP-25853-2023**) had initially filed CWP No.21408 of 2011, whereby they sought the release of the petition lands from acquisition. Though this Court allowed the said writ petition but in an appeal being preferred thereagainst, by the aggrieved-State of Haryana, before the Hon'ble Apex Court, thus the Hon'ble Apex Court, after reversing the verdict, as made by this Court, proceeded to decline the relief, as claimed in the said writ petition by

the present petitioner(s).

8. The petitioner(s) (in both the cases) yet filed CWP-18737 of 2016 before this Court whereby they claimed the making of a lapsing declaration in terms of Section 24(2) of the 'Act of 2013'. Though, the said claim was allowed by this Court, through an order made thereons, on 14.12.2016, but the said drawn verdict by this Court became reversed and set aside by the Hon'ble Apex Court, on 11.04.2023, through its making a decision on Civil Appeal No. 2135-2136 of 2023.

9. Though, therebys the instant writ petition(s) which are respectively the third (in **CWP-25853-2023**) and second writ petition (in **CWP-25854-2023**), thus instituted by the present petitioner(s), rather are completely barred by the principle of estoppel, thus created by earlier denials of writ reliefs to the present petitioner(s), thus by the Hon'ble Apex Court.

10. However, the learned counsel for the petitioner(s) submits that the leverage of the said bar is not available to be assigned to the respondent. In making the said submission, the learned counsel for the petitioner(s) submits, that since the instant writ petition(s) are premised on the provisions (supra), as embodied in Section 101 A of the 'Act of 2013'.

11. Therefore, he argues that the instant writ petition(s) are maintainable, and in terms thereof, the petitioner(s) pray, that the above mandamus be passed upon the respondents concerned.

12. However, even the above made submission is completely mis-founded, and, the reason for drawing the above inference, becomes marshalled from the factum, that the decision, as made by the Hon'ble

Apex Court on Civil Appeal No. 2135-2136 of 2023 became rendered on 11.04.2023. Therefore, when the provision (supra) became incorporated in the 'Act of 2013' in the year 2018, and, as such when the said amendment was in force, when the *lis* was *sub judice* before the Hon'ble Apex Court.

13. Therefore, it was but incumbent, upon, the present petitioner(s) to seek leave of the Hon'ble Apex Court to raise the said ground before this Court. However, the said espousal was not made by the present petitioner(s) before the Hon'ble Apex Court.

14. Consequently, for want of the above espousal being made by the present petitioner(s), before the Hon'ble Apex Court nor also when the relevant leave for making the above espousal before this Court, rather became granted to the present petitioner(s).

15. In sequel, it is construed that the above ground became waived, and thereby the present petitioner(s) are completely estopped to raise the above said grounds in the instant writ petition(s).

16. For all the reasons above, this Court finds no merit in the writ petition(s) and is constrained to dismiss them.

17. Both the writ petition(s) are accordingly dismissed.

18. Since the main cases itself have been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

01.02.2024
kavneet singh

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