

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024.PHHC.093260-DB



(105)

CWP No.32593 of 2018
Decided on :24.07.2024

Paramjit Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

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

Present: Ms. Navneet Kaur, Advocate for
Mr. S.S. Chauhan, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. AG, Haryana&
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep K. Manchanda, Advocate for the HSVP.

G.S. Sandhawalia, J.(Oral)

1. Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the acquisition process which was initiated on 21.04.1987 (Annexure P-5) under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act') followed by a declaration dated 20.04.1988 (Annexure P-6) issued under Section 6 of the said Act and subsequent Award dated 12.04.1990 (Annexure P-7) including the supplementary award dated 11.01.1991 (Annexure P-8). The writ petition having been filed in the year 2018 apparently was only on the strength of the lapsing of the land in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act').

2. It is pointed out that on an earlier occasion on 05.09.2019 the case had been adjourned *sine die* on account of pendency of SLP before the Apex Court. It has been specifically pleaded that compensation had been paid for 50 kanals 17 marlas of land and unpaid for 13 kanals 4 marlas of land, as per the certificate issued by respondent No.2 (Annexure P-3). It is submitted that constructions had been raised in the form of shops on the land in dispute, which was sought to be acquired by the State for the purposes of development and utilization of land as residential and commercial area by the erstwhile HUDA (now HSVP) in village Patti Jhambra Shahabad, Tehsil Thanesar, District Kurukshetra.

3. The reply filed by the State would go on to show that at the time of issuing of Section 4 notification there was no construction except one tubewell and one kotha over the land in question owned by Karam Singh who was grandfather of petitioners No.1 & 2 and father-in-law of petitioner No.3. The objections under Section 5-A of the 1894 Act had been called and the landowners had filed necessary objections and the same were duly heard by the Land Acquisition Collector. Resultantly, the Award had been announced on 12.04.1990(Annexure P-7) and possession had been taken and handed over to the beneficiary erstwhile HUDA (now HSVP), vide Rapat Roznamcha No.373 dated 12.04.1990. The supplementary award was also announced on 11.01.1991 regarding construction over the acquired land on the assessment made by Executive Engineer, HUDA, Division Karnal. However, it has been averred that possession could not be taken due to stay on dispossession ordered by this Court on 11.10.1990 in **CWP No.13184 of 1990 ‘Ravinder Pal Singh Vs. State of Haryana and others’** (Annexure R-2/1), which was filed by Ravinder Pal Singh, father of petitioners No.1 & 2 and husband of petitioner No.3. The said writ petition was dismissed on 17.12.2010 (Annexure

R-2/2), wherein it was noticed that the right of the compensation for the super-structure was conditional, firstly on the ground that there was construction raised when the notification under Section 4 was issued and secondly no compensation was provided for the super-structures, provided that if it was due and the petitioners should have agitated for their rights by filing an application under Section 18 of the 1894 Act and award was not liable to be set aside.

4. Resultantly, it is apparent that on merits, the matter has already been decided against the petitioners. Ravinder Pal Singh, father of petitioner Nos.1 & 2 had also filed an appeal before the Apex Court bearing **SLP (C) No.6285 of 2011** which was dismissed as withdrawn on 24.02.2015 (Annexure P-11) on the ground that certain rights under Section 24(2) of the 2013 Act would be agitated and a writ petition could be filed before this Court. In the meantime, the petition bearing **CWP No.12768 of 2014** came to be filed and same is stated to have been dismissed on 12.10.2020 (Annexure R-2/4) by observing as under:-

“The issues raised in this petition stand completely answered against the petitioner by the judgment of the Supreme Court in **Indore Development Authority v. Manoharlal and others AIR 2020 SC 1496**.

The petition stands dismissed.

Learned counsel for the petitioner seeks liberty to approach the Government for release of the land by invoking Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as applicable to the State of Haryana.

This Court in **CM No.9051-CWP of 2020 in CWP No.22241 of 2016** titled as **Raghubir Singh and another Vs. State of Haryana and others** has dismissed this request in consonance with the settled law and judgment of Indore Development Authority (supra).

5. It is, thus, apparently clear that the petitioners have already availed all the remedies for the release of the land and, therefore, the present petition would be barred by *res judicata*. It is pertinent to notice that the present petition was filed after the SLP before the Apex Court had been dismissed as withdrawn on 24.02.2015 (Annexure P-11) and during the pendency of **CWP No.12768 of 2014** filed by Ravinder Pal Singh, which eventually met its fate six years later. The maintainability of the present petition, thus, has also rightly been questioned, as to how same family members can agitate for the same grievances by filing repeated litigations. Rather, it is a case where costs should be imposed for repeated litigations by same set of persons qua the same relief, to which we refrain ourselves from passing such orders.

6. On the issue of the factum of the compensation amount, in the reply filed by respondents, it has been mentioned that Rs.30,45,759/- was disbursed to the landowners, which had been duly tendered before the Land Acquisition Collector, Panchkula at the time of announcement of the award. Regarding the award compensation of Rs.1,72,049/- qua the petitioners' land, it has been mentioned that the same was deposited in the Court of learned Additional District Judge, Kurukshetra on 04.03.2022, but the same has not been received by the petitioners.

7. The issue which could be raised or had been contended before the Coordinate Bench regarding the entitlement under Section 101-A of the 2013 Act regarding the viability of the non-usages such has been rebutted by pleading that as per the development plan dated 28.12.1988, the land in question affects the planning of dispensary site, 9 meter wide road and 16 plots of 10 marla category, as per the layout plan (Annexure R-2/5) and, therefore, the land was acquired for the larger public interest.

8. Resultantly, keeping in view the above, we are of the considered opinion that the matter on merits as such has already been decided against the petitioners, as on an earlier occasion the father of petitioner Nos.1& 2 went to the Apex Court and filed SLP, which was dismissed as withdrawn. Thereafter, challenge had been raised before this Court by filing another writ petition, which was also dismissed, but the land was not released from the planned development. In such circumstances, we do not find any plausible reason to further continue with the said proceedings and the present writ petition is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

24.07.2024
Naveen

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No