

(2020) 09 P&H CK 0074

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 26158 Of 2016

Baru Ram And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24, 24(2)
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2020) 09 P&H CK 0074

Hon'ble Judges : S. Muralidhar, J; Avneesh Jhingan, J

Bench : Division Bench

Advocate : Mayank Gupta, Ankur Mittal

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. This writ petition had earlier been adjourned sine die awaiting the decision of the Constitution Bench of the Supreme Court.

2. After the judgment of Constitutional Bench of the Supreme Court in Indore Development Authority v. Manoharlal AIR 2020 SC 1496 interpreting Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'), an application was filed by the Respondents being CM-8033-CWP-2020 seeking listing of the main writ petition itself. In this application, an order was passed on 14th September, 2020, directing that the writ petition be listed today and further directing the Registry to telephonically inform Mr. Vinod Gupta, learned Counsel for the Petitioners to remain present on 16th September, 2020.

3. Today, Mr. Mayank Gupta, learned Counsel for the Petitioners appeared and first sought an adjournment saying that Mr. Vinod Gupta, learned arguing counsel is not available.

4. Considering that a specific order was passed on 14th September, 2020 requiring Mr. Vinod Gupta to remain present through the video link and considering that the grounds raised in the writ petition are squarely covered against the Petitioners by the judgment of Constitution Bench of the Supreme Court in *Manoharlal (supra)*, the Court did not consider the request to be a reasonable one. Accordingly, the case was passed over to enable Mr. Mayank Gupta to get ready with addressing arguments in the matter. On second call, the Court heard the submissions of Mr. Mayank Gupta at some length.

3. It is seen that the main prayer in the writ petition is for a declaration of deemed lapsing of the land acquisition proceedings which commenced with the issuance of notification dated 12th June, 1995 under Section 4 of the Land Acquisition Act, 1894 ('LAA') followed by notification dated 1st June, 1996 under Section 6 of the LAA and culminated in an Award dated 9th June, 1998.

4. From the reply filed by the Respondents, it is seen that the acquisition was in respect of land admeasuring 39.57 acres in village Hansi, Hisar, Haryana and in respect of which an Award was passed on 9th June, 1998. The reply further states that possession of the land in question was taken and handed over to the Estate Officer, Haryana Urban Development Authority by Rapat No. 341 dated 9th June, 1998.

4. Even as regards disbursal of compensation, it is seen that out of a total amount of Rs.1,37,43,081.05, a sum of Rs.1,36,05,650/- stands disbursed. It is stated that balance amount of Rs. 1,37,431/- lies deposited in a specific account. Thus, 99% of the total amount has been disbursed. In view of the above facts, none of the grounds raised in the present petition seeking a declaration of deemed lapsing of land acquisition proceedings under Section 24 (2) of the 2013 Act survive. On this short ground alone, the petition ought to be dismissed.

5. Mr. Mayank Gupta, learned Counsel for the Petitioners then drew the attention of the Court to an order passed by this Court on 2nd April, 1998 in CWP-5090-1997 filed by certain shopkeepers, including the present Petitioners, challenging the aforementioned notifications under Section 4 and 6 of the LAA. A statement apparently had been made before this Court on behalf of the Respondents in the said writ petition that the Petitioners would be offered shops in the duly developed Auto Market, after development at the reserve price on a "no profit-no loss basis". It was further stated by the Respondents that "as far as possible the Petitioners will not be disturbed till such time they are accommodated on the alternative site". It appears that subsequently, a further order was passed on 30th April, 1998 in the same writ petition, recording that the Petitioners had accepted the offer made on behalf of the Respondents. It was clarified that "while allotting the sites to the Petitioners, the size and location of the shops in possession of the Petitioners are present, shall be kept in view".

6. It is stated in para 10 of the writ petition that "thereafter the Government has dropped the idea of development of the Auto Market in the area" and that "no

action was taken by the Respondents to take possession of the land in question".

7. It may be mentioned here that the Award itself was made on 9th June, 1998 subsequent to the aforementioned order and possession was also taken in terms of the Rapat No. 431 on the date of the Award itself. The reply simply states that "the planning of development of the Auto Market has been finalized". On the other hand, the petition is totally silent on what steps the Petitioners took to have the assurances recorded in the order dated 2nd and 30th April, 1998 implemented.

8. By no stretch of imagination can the statements of the Respondents recorded in the aforementioned orders of this Court provide fresh grounds for filing a writ petition in 2016 i.e. more than 18 years since the orders dated 2nd and 20th April, 1998 came to be passed, to seek a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act. Such a petition would clearly be barred by delay and laches, as has been explained by the Supreme Court in Manoharlal (supra). In this regard, para 363 (9) of the said judgment is relevant and reads as under:

"363. In view of the aforesaid discussion, we answer the questions as under:

.....

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

9. In fact, for more than 22 years now, no steps have been taken by the Petitioners to seek implementation of the orders dated 2nd and 30th April, 1998 of this Court.

10. For all the aforementioned reasons, this Court finds no ground to accede to the only prayer made in the present writ petition viz., the declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act.

11. The writ petition is dismissed. No order as to costs.