

(2020) 08 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2675, 3273, 2876 Of 2018

Pohap Singh And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 11-08-2020

Acts Referred:

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

Citation : (2020) 08 P&H CK 0021

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

Bench : Division Bench

Advocate : Jai Vir Yadav, Sushil K. Sharma, Neeraj Gupta, Lokesh Sinhal

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. These are three petitions challenging the land acquisition proceedings culminating in the Award dated 9th March, 2006 following a notification dated

17th September, 2004 under Section 4 of the Land Acquisition Act, 1894 (â?? LAAâ??) and a notification dated 27th October, 2004 under Section 6

of the LAA. The acquisition, inter alia, was of land in Khasra Nos. 25//22/2 (2-0), 28//2/1 (3-11), 3/2 (5-2), 7/1/1 (1-16), 8/1 (4-0), 31//15 (8-0), 16/1

(5-7), 32//10/1 (0-8), 10/2 (0-16), 20/2 (6-0), 1//2/2, 8, 9/3, 9/5, 2//2/2, 3, 9/1, 9/2, 9/4, 28//4/2 (0-17), 6/2 (2-8) and 7 (5-0), situated in Tehsil Manesar,

District Gurgaon (hereinafter, â??subject landâ??) for the public purpose of â?? setting up of Chaudhari Devi Lal Industrial Model Township, Phase-

V Manesar to be planned and developed as an integrated complex for Industrial, Institutional, Commercial, Recreational and other public utilitiesâ??.

2. The present petitions were by an order dated 28th November, 2019 adjourned sine die, awaiting the judgment of the Constitution Bench of the

Supreme Court of India, interpreting Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 (hereinafter the "2013 Act"). On 6th March, 2020, the Constitution Bench of the Supreme Court delivered its judgment

in a batch of Special Leave Petitions (SLPs) and appeals, the lead cases of which were SLP (C) Nos. 9036-38 of 2016 (Indore Development

Authority v. Manoharlal and others etc.). The answers to the specific questions that arose for consideration have been set out in para 363 of the

judgment of the Supreme Court.

3. One of the major conclusions of the Supreme Court in the Manoharlal (supra) is that even if one of the two negative conditions in Section 24 (2) of

the 2013 Act stands satisfied, there would be no deemed lapsing of the land acquisition proceedings.

4. The common grievance in these three petitions is that possession of the subject lands remains to be taken and the Petitioners are yet to receive

compensation for their acquisition.

5. Mr. Lokesh Sinhal, Senior Additional Advocate General, Haryana has placed on record the status as regards payment of compensation to the

Petitioners in these three petitions. He has also placed on record the details of the possession proceedings by which possession of the subject land has

been taken and handed over to the Haryana State Industrial and Infrastructural Corporation.

6. As far as possession of the subject lands is concerned, in relation to the land in CWP No. 2675 of 2018, possession proceedings have been drawn

up by Rapat No. 650 dated 9th March, 2006; in relation to the land in CWP No. 3273 of 2018, possession proceedings have been drawn up by Rapat

No. 707 dated 22nd March, 2006, and, in relation to the land in CWP No. 2876 of 2018, possession proceedings have been drawn up by Rapat No.

902 dated 31st May, 2013. As regards the question of possession, the Supreme Court has clarified in para 245 of the said judgment in

MANOHARLAL that "when the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the

physical possession of the land. On the large chunk of property or otherwise

which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts residing in the outhouse, etc., is deemed to be the trespasser on land which is in possession of the State. The possession of the trespasser always inures for the benefit of the real owner that is the State Government in the case."

7. As regards compensation, it is stated that the compensation amounts for acquisition of the subject land in each of these petitions, were deposited in the Court of the Additional District Judge, Gurgaon by cheque no. 492757 dated 5th August, 2014, but was not lifted by the Petitioners.

8. With both negative conditions in Section 24 (2) of the 2013 Act being fulfilled, there is no occasion to grant the relief prayed for in these petitions.

9. The petitions are without merit and are dismissed as such.

10. A copy of this order be placed in the files of other connected matters.