

(2020) 08 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7230 Of 2017

Shakuntla Yadav And Another

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 24-08-2020

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(2)

Citation : (2020) 08 P&H CK 0046

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

Bench : Division Bench

Advocate : Aashish Chopra, Ankur Mittal

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. The challenge in the present petition is to the land acquisition proceedings commencing with notification No. LAC(G)-NTLA-2003/809 dated January 27, 2003 under Section 4 of the Land Acquisition Act 1894 ('LAA'), Notification No. LAC(G)-NTLA-2004/997 dated January 23, 2004 under Section 6 LAA and culminating in an Award dated 20th January 2006. The acquisition was for the development and utilisation of land as residential and commercial in Sectors 17 (part), 18, 19 and 20 (part) in District Rewari, Haryana.

2. It is seen from the Award passed in the present matter that the Land Acquisition Collector (LAC) has recorded therein that possession of the land in question has already been taken by a Rapat Roznamcha No. 344 dated 20th January 2006.

3. It must be noted here that the Petitioners had earlier filed in this Court CWP No. 2126 of 2015 which stood disposed of by an order dated 29th May 2015 of this Court directing the Respondents to consider the Petitioners' representation.

The Respondents have since then passed an order dated 7th December 2016 rejecting the representation and that order has been challenged in the present petition.

4. Although Mr. Aashish Chopra, Advocate sought to distinguish the taking of possession by way of Rapat Roznamcha from taking possession in terms of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter the '2013 Act'), after the decision of the Constitution Bench of the Supreme Court in *Indore Development Authority v. Manoharlal and others etc.* AIR 2020 SC 1496, the submission no longer survives. It has been held by the Supreme Court in para 245 of the said decision as under:

"245. The question which arises whether there is any difference between taking possession under the Act of 1894 and the expression "physical possession" used in Section 24(2). As a matter of fact, what was contemplated under the Act of 1894, by taking the possession meant 218 only physical possession of the land. Taking over the possession under the Act of 2013 always amounted to taking over physical possession of the land. 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 in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case."

5. In that view of the matter, the possession having been taken by the authorities, the question of any declaration of deemed lapsing of land acquisition proceedings in terms of the 2013 Act, does not arise. Moreover, the Respondents state that the Petitioners have not lifted the compensation amount and of the total compensation amount of Rs. 26, 16, 74, 593 a sum of Rs. 21, 01, 81, 401 stands disbursed. Thus even the ground of non-payment of compensation is not available.

6. The petition is accordingly dismissed.