

RAJINDER KUMAR JAIN v. STATE OF HARYANA , (2022-3)207 PLR 016 , 2022 PLRonline 2770

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Augustine George Masih and Mr. Justice Ashok Kumar Verma.

RAJINDER KUMAR JAIN – Petitioner,

Versus

STATE OF HARYANA and others – Respondents.

CM-2036-CWP-2022 in/& CWP No.1861 of 2005, CWP No.13031 of 2004, CWP

No.13519 of 2004, CWP No.13539 of 2004, CWP No.13555 of 2004, CWP No.13569 of 2004 and CWP No.1381 of 2005

Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) Section 25(2) - Stay orders - Effect of - Fact that right from the beginning, there were stay orders in favour of the petitioners regarding their dispossession, because of which there was no occasion for the respondents to take the possession of the land in question - It has been clearly stated by the respondents in their reply that after announcing the award, possession of the land has been taken and handed over to the beneficiary Department i.e. HUDA on the day of the award except the land for which the orders of stay, status quo and stay of dispossession have been passed by the competent Courts - Therefore, it cannot be said that the respondents have not taken the possession of the land in question. [Para 7]

Cases referred to:-

1. 2020 (AIR) SC 1496, *Indore Development Authority v. Manoharlal*.

Mr. S.S. Dinarapur, for petitioner(s) in CWP No.1861 of 2005. *None* for the petitioners in remaining writ petitions. *Mr. Ankur Mittal, Addl. A.G., HY. assisted by Ms. Kushaldeep Kaur.*

Augustine George Masih , J. -(4th March, 2022) -

CM-2036-CWP-2022 in CWP No.1861 of 2005

Prayer in this application is for placing on record photocopies of Jamabandi for the years 1986-87, 1991-92, 2006-07, Mutation No.2561 along with Field Book, copy of Khasra Girdwari for the years 2013-14 and 2020-21 as Annexures P-8 to P-13.

For the reasons stated in the application, the same is allowed.

Documents appended along with the present application are taken on record, subject to all just exceptions. Registry is directed to place these documents at appropriate stage of the case.

Main Cases

1. By this order, we propose to dispose of these seven writ petitions i.e. CWP No.1861 of 2005, CWP No.13031 of 2004, CWP No.13519 of 2004, CWP No.13539 of 2004, CWP No.13555 of 2004, CWP No.13569 of 2004 and CWP No.1381 of 2005 as the facts and issues involved in these writ petitions are the same. Counsel for the parties had earlier consented for clubbing them up and for disposal of these writ petitions by a common judgment. The pleadings in CWP No.1861 of 2005, titled as '*Rajinder Kumar Jain v. State of Haryana & others*' have been referred to in this order.

2. Challenge in these writ petitions is to the notification dated 28.01.2002 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 23.01.2003 issued under Section 6 of the 1894 Act and award dated 20.01.2005. Earlier, these writ petitions were dismissed by this Court vide orders dated 15.05.2006 and 13.07.2016 upholding the acquisition proceedings. These orders were challenged by the petitioners before the Hon'ble Supreme Court by filing Special Leave Petitions, where dispossession of the petitioners was stayed but the same were ultimately dismissed vide order 22.08.2014 affirming the orders passed by this Court holding that the acquisition proceedings have been properly concluded under the 1894 Act.

However, these matters were remitted back to this Court to examine the limited question whether the said acquisition proceedings have lapsed on account of the provisions of Section 24 of the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') with liberty to the parties to file additional affidavits and any other documents. It was also directed by the Hon'ble Supreme Court that status quo as it existed on that date in regard to the disputed property shall be maintained by the parties till the disposal of the matter by this Court.

3. Learned counsel for the petitioner(s) submits that in the light of the provisions as contained in Section 24 (2) of 2013 Act, respondents having neither taken physical possession of the land nor having the compensation amount been disbursed, render the land of the petitioners, as has been acquired vide award dated 25.01.2005, liable to be released. It is asserted that the land acquisition proceedings under 1894 Act would lapse. In support of this contention, learned counsel for the petitioner(s) has referred to certain documents, which have been placed on record as Annexures P-8 to P-13, to substantiate that the petitioners are in physical possession of the land in question. Counsel for the petitioner(s), on this basis, asserts that the notifications dated 28.01.2002 and 23.01.2003 as also the award dated 20.01.2005 cannot sustain and deserve to be set aside.

4. On the other hand, learned counsel for the respondents submits that for applicability of

Section 24 (2) of 2013 Act, which would entitle the petitioner(s) the benefit of release of land on the lapsing of the acquisition proceedings initiated under the 1894 Act, there should neither be physical possession taken nor compensation paid. If any of the two contingencies have been complied with, then the land acquisition proceedings under 1894 Act would not lapse. He submits that in CWP Nos.1381 and 1861 of 2005, dispossession of some of the petitioners from the land in question was stayed by the Hon'ble Supreme Court on 20.11.2006 and 18.05.2007, which is in operation till date. In the remaining five writ petitions, dispossession of the petitioners was stayed prior to the announcement of award i.e. on 13.08.2004 which is also still continued. Therefore, there was no occasion for the respondents to take the possession of the land in question. With regard to the compensation, learned counsel for the respondents submits that the said amount was deposited with the Land Acquisition Collector at the time of passing of the award and the same was very much available for disbursement but the petitioner(s) have chosen not to collect/receive the same and they are at liberty to receive it at any time.

5. Learned counsel for the respondents further submits that since these writ petition(s) were earlier dismissed by this Court on merits and SLPs preferred against the said orders having also been dismissed by the Hon'ble Supreme Court, the prayer made by the petitioner(s) seeking release of their land in view of the provisions of Section 24 (2) of 2013 Act cannot be accepted in the light of the observations of the Hon'ble Supreme Court in *Indore Development Authority v. Manoharlal and others*¹ 2020 (AIR) SC 1496, where, in paras 359 and 363 (9), it has been held that if the acquisition of land had earlier been challenged and the same has been upheld, the proceedings having been concluded, the umbrella of protection provided under Section 24(2) of the 2013 Act, cannot be invoked and it does not revive stale and time barred claims. He submits that these writ petitions, therefore, deserve to be dismissed.

6. We have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the pleadings as well as the judgment passed by the Hon'ble Supreme Court in *Indore Development Authority's case* (supra).

7. The contention of the learned counsel for the petitioner(s) that the petitioner(s) are in possession of the land in question and the respondents have not taken the possession thereof and as such, there is a lapse of proceedings, cannot be accepted in the light of the fact that right from the beginning, there were stay orders in favour of the petitioners regarding their dispossession, because of which there was no occasion for the respondents to take the possession of the land in question. It has been clearly stated by the respondents in their reply that after announcing the award, possession of the land has been taken and handed over to the beneficiary Department i.e. HUDA on the day of the award except the land for which the orders of stay, status quo and stay of dispossession have been passed by the competent Courts. Therefore, it cannot be said that the respondents have not taken the possession of the land in question, rather it was only because of the stay orders of the Courts in favour of the petitioners, because of which the possession of the land in question could not be taken.

8. As regards the compensation amount, it has been specifically stated that the entire

award amount was tendered at the time of announcement and was very much available with LAC for disbursement. However, petitioners have not chosen to receive the compensation amount and they are at liberty to receive the same. Merely because the petitioners have not collected the amount of compensation, it would not entitle them to assert that the compensation has not been disbursed to them.

9. Para 203 of the judgment in *Indore Development Authority's case* (supra) deals with the word 'paid' and it has been concluded in para 206 that when the amount has been tendered, the obligation has been fulfilled by the Collector. In case a person does not collect the amount, he cannot take the benefit of the same by asserting that the amount has not been paid to him and as such, there is a lapse of proceedings. Apart from that, it has been held in para 224 of the said judgment that word 'paid' used in Section 24 (2) of 2013 Act does not include within meaning the word 'deposited', which has been used for proviso to Section 24 (2). It has, therefore, been concluded that the acquisition would not lapse, if the compensation amount is deposited with the Land Acquisition Collector, which is available for disbursement to the land owner(s).

10. Further, the prayer made by the petitioners in these writ petitions cannot be accepted in the light of the observations of the Hon'ble Supreme Court in *Indore Development Authority's case* (supra), where, in paras 359 and 363 (9), it has been held that if the acquisition of land had earlier been challenged and the same has been upheld, the proceedings having been concluded, the umbrella of protection provided under Section 24(2) of the 2013 Act, cannot be invoked and it does not revive stale and time barred claims especially when the amount of compensation has already been deposited with the Land Acquisition Collector, leading to the land having been vested in the State in accordance with law.

11. It would not be out of way to mention here that it is an admitted position that the land in question has been sought to be acquired for public purpose i.e. for the development and utilization of land for the residential as well as commercial area of Sector 17, Jagadhari and therefore, the land in question cannot be released.

12. In view of the above, we do not find any merit in these writ petitions and therefore, dismiss the same.

Sd/- Ashok Kumar Verma, J.

R.M.S.

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Petition dismissed.