



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-6368-2014

Reserved on: 11.03.2025

Pronounced on: 27.03.2025

SULEKH CHAND AND OTHERS

.....Petitioners

Versus

FINANCIAL COMMISSIONER AND SECRETARY, DEPARTMENT
OF URBAN ESTATES, GOVT. OF HARYANA AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Akash Manocha, Advocate
for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Ms. Svaneel Jaswal, Additional Advocate General, Haryana,
Mr. P.P. Chahar, Sr. Deputy Advocate General, Haryana,
Mr. Saurabh Mago, Deputy Advocate General, Haryana,
Mr. Gaurav Bansal, Deputy Advocate General, Haryana and
Mr. Karan Jindal, Assistant Advocate General, Haryana.

Mr. Ankur Mittal, Advocate,
Ms. Sharvi Dadhwal, Advocate,
Ms. Gurcharan Kaur, Advocate,
Ms. Kushaldeep Kaur, Advocate and
Ms. Saanvi Singla, Advocate, for the respondent-HSIIDC.

SURESHWAR THAKUR, J.

1. In the instant case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act of 1894'), was issued on 31.12.2013. The said notification was challenged by the petitioners through their instituting the instant writ petition. The instant petition came up for hearing before this Court, on 02.04.2014. On the said date, this Court stayed the issuance of notification under Section 6 of the Land Acquisition Act, 1894 and dispossession.



2. Ultimately the instant writ petition became allowed vide judgment dated 05.09.2017, and the apposite notification was quashed and set aside.

3. The said judgment of 05.09.2017, as passed by this Court, became challenged by the State of Haryana before the Apex Court, through its filing SLP No.15390-396 of 2022. Vide order dated 08.03.2019, the Apex Court stayed the operation of the impugned judgment dated 05.09.2017. In the said matter, the Apex Court vide judgment dated 28.07.2022 set aside the impugned judgment passed by the Full Bench of this Court.

4. The instant writ petition became remanded by the Hon'ble Supreme Court vide order dated 21.02.2024. The operative part of the said order is extracted hereinafter.

“.....Accordingly, the impugned orders are set aside and the matters are remitted to the High Court for fresh consideration of all the other issues on merits that have been raised in the respective petitions in accordance with law.....”

5. In the above regard, it is not disputed, that the notification as issued under Section 4 of the 'Act of 1894', was issued on 31.12.2013, and, when the date of issuance of the said notification, is prior to the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the “Act of 2013”). Therefore, in terms of the verdict (supra), the acquisition proceedings became initiated as such under the 'Act of 1894'. Consequently, the subsequently issued declaration under Section 6 of the 'Act of 1894', even if the date of making of the said declaration, was subsequent to the coming into force



of the 'Act of 2013'. Nonetheless, the trite factum of issuance of a notification under Section 4 of the 'Act of 1894', rather on a date, but prior to the coming into force of the 'Act of 2013', has the conspicuous relevance and import, thus for thereby even validating the subsequently issued declaration under Section 6 of the Act of 1894.

6. Furthermore, a perusal of reply on affidavit reveals that the subject award, thus could not be passed owing to the interim orders passed by this Court, which were further made absolute by this Court vide order dated 05.09.2017, whereby the notification qua the petitioners was quashed in view of the full Bench judgment rendered in case titled as '**Deepak Aggarwal and another Vs. State of Haryana and others**'. Thereafter, the said judgment of the full Bench of this Court became set aside by the Hon'ble Apex Court in case titled as **HSIIDC Vs. Deepak Aggarwal (Supra)** and the instant writ petition became remanded by the Apex Court vide order dated 21.02.2024, whereby the Apex Court made a direction for maintaining **status quo** regarding possession. It was in view of the above stay order being in operation till today, that neither a declaration under Section 6 of the Act of 1894 could be made, nor the award could be pronounced.

7. However, since the said non issuance of a declaration under Section 6 of the Act of 1894, besides the non passing of the subject award. Moreover, when also the assumption(s) of possession over the subject lands when rather also remained uninitiated from the passings of the interim/ final orders (supra), thus respectively by this Court and by the Apex Court, therefore, it cannot be construed that the authorities have not proceeded in accordance with law and/or the acquisition proceedings become vitiated.



8. Reliance in this regard has been placed upon the verdict rendered by the Hon'ble Apex Court in case titled as '***State of Maharashtra Vs. M/s Moti Ratan Estate and Anr.***' reported in **AIR 2019 (SUPREME COURT) 4149**, wherein it has been expostulated that "*if there is any stay over the action or proceeding by a Court of law, in one or the other matter arising from the selfsame acquisition proceedings in reference to Section 4 followed with Section 6 of the Act, the authorities are said to be justified in the given facts and circumstances to stay their hands and await the decision of the Court and such a period during which there is a stay over the action or proceeding by a Court of law in a matter, that has to be excluded for all practical purposes, in computing the statutory period of two years in passing of an award under Section 11 of the Act.*"

9. The import of the above expostulations, is that, the non rendition of awards under the 'Act of 1894', when arises from stay orders becoming granted by the Courts of Law, thereby the launching of acquisition proceedings under the 'Act of 1894', thus would not become lapsed, rather the Collector concerned, becomes empowered to, in terms of Section 11 of the 'Act of 1894' thus make an award.

10. However, since in the instant case, thus a notification under Section 4 of the Act of 1894, became issued, on 31.12.2013. Therefore, since therebys the factual matrix appertaining to the instant case, rather is almost similar to the factual matrix detailed in the judgment rendered by the Apex Court in ***HSI IDC Vs. Deepak Aggarwal case (supra)***. In sequel, when on the said inter se similar factual matrix, the Apex Court in the verdict rendered in ***HSI IDC Vs. Deepak Aggarwal case (supra)***, has declared that the date of issuance of a notification under Section 4



of the Act of 1894, has the conspicuous relevance for ensuring the continuation of the acquisition proceedings, as become initiated thereunders, to the extent that though the said launched proceedings would continue, besides though the award is to be rendered in terms of the Act of 1894, but the determination of compensation amount thereunders rather is to be made through applying the statutory mandate enclosed in the Act of 2013.

11. In sequel therebys, the acquisition proceedings are deemed to continue irrespective of no declaration being made in terms of Section 6 of the Act of 1894, especially when against the passing of the said declaration, thus stay order(s) became respectively made by this Court, and, by the Apex Court, whereupons in the face of the judgment rendered by the Apex Court in *AIR 2019 (SUPREME COURT) 4149*, the effect of the same, is that, it does not restrain the competent authorities to continue with the already launched acquisition proceedings.

12. Therefore, the respondents concerned, are directed to proceed with the acquisition proceedings drawn under the Act of 1894, and to thereafter issue a declaration under Section 6 of the Act of 1894, and subsequently pass an award under Section 11 of the 'Act of 1894' in respect of the acquired lands, but the determination of compensation be made in terms of the 'Act of 2013'. Furthermore, the petitioners are directed to forthwith hand over encumbrance free possession of the subject lands to the respondent concerned.

13. Conspicuously also since it has been stated in the reply on affidavit, already on record, that the subject lands are an integral



component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose than the ill individualistic interest of the petitioners is rather to be furthered. Resultantly, this Court finds no merit in the instant petition, and, is constrained to dismiss it.

Final Order of this Court.

14. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notification is maintained and affirmed but as stated (supra) a declaration be forthwith made under Section 6 of the Act of 1894, subsequently the award be passed qua the subject lands under Section 11 of the 'Act of 1894' but compensation be determined in terms of the 'Act of 2013'.

**(SURESHWAR THAKUR)
JUDGE**

**(VIKAS SURI)
JUDGE**

27.03.2025

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable | : | Yes/No |