


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6975/2016

Gyanwati

----Petitioner

Versus

1. State of Rajasthan, Urban Development and Housing Department through Secretary, Urban Development and Housing Department, Secretariat, Jaipur.
2. State of Rajasthan through Collector, Alwar.
3. Urban Improvement Trust through Secretary, Urban Improvement Trust, Alwar.
4. Land Acquisition Officer, Urban Improvement Trust, Alwar.

----Respondents

For Petitioner(s) : Mr. Bipin Gupta
For Respondent(s) : Mr. Parag Rastogi

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

08/11/2023

1. Instant petition has been filed by the petitioner with the following prayers:-

- i) by way of writ, order or direction the land acquisition proceedings in respect to petitioner land under the award dated 25.6.1998 may kindly be declared to have lapsed.
- ii) by way of writ, order or direction the respondents may be directed to re-enter name of the petitioner in revenue record which has been malafidely entered in the name of the UIT on dated 4.1.2013;
- iii) by way of writ, order or direction the respondents may be directed not to interfere in the land of petitioner in dispute.
- iv) Any other appropriate order or direction which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioner.

v) Cost of the writ petition may also be awarded to the petitioners.

2. Learned counsel for the petitioner submits that the land of the petitioner and other Khatedars was acquired by the respondents by issuing notification under Section 4 of the Land Acquisition Act, 1894 (for short "the Act of 1894"), thereafter notice under Section 6 under the Act of 1894 was issued by the respondents on 20.01.1997 inviting applications from the objectors and finally, the award was passed by the Land Acquisition Officer on 25.06.1998 determining the amount of the compensation. Counsel submits that in spite of passing of considerable time, till date neither possession of the land in question has been taken nor any amount of compensation has been paid to the petitioner, hence, in view of the provisions contained under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act of 2013"), the land acquisition proceedings have lapsed. Counsel submits that the controversy involved in this petition has already been set at rest by the Constitutional Bench of the Hon'ble Apex court in the case of **Indore Development Authorities vs Manohar Lal and Ors.** reported in 2020 8 SCC 129.

3. Per contra, learned counsel for the respondents opposed the arguments raised by the counsel of the petitioner, but he is not in a position to controvert the submissions made by the counsel for the petitioner.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. This fact is not in dispute that vide notification dated 25.07.1995 was issued by the respondents under Section 4 of the Act of 1894 by which land of the petitioner and certain other Khatedars was acquired and thereafter, notice under Section 6 of the Act of 1894 was issued on 20.01.1997 inviting objections from the objectors against the above land acquisition proceedings and finally the award was passed by the Land Acquisition Officer vide order dated 25.06.1998. This fact has been admitted by the respondents in their reply that neither possession of the land in question has been taken nor any amount of monetary compensation has been paid to the petitioner as per the award dated 25.06.1998. There is admission made by the Respondent No. 3 in Para 7 of their reply, which reads as under:-

"7 That although as per record available in the office of the Respondents neither possession of the land in question has been taken over by the land Acquisition Officer and handed over to the representative of the Urban Improvement Trust, Alwar nor amount of monetary compensation as per as award dated 25.06.1998 has been paid to the petitioner or deposited along with reference application before the competent court nor developed land has been allotted in favour of the petitioner in lieu of monetary compensation, but in the aforesaid facts and circumstances the petitioner is not entitled to get any relief as prayed by her in the writ petition. The present writ petition is not maintainable on any ground."

6. When this fact remains undisputed that neither the possession has been taken nor any monetary compensation has been paid / deposited to the petitioner, the impugned acquisition proceedings qua the petitioner stands lapsed, in the light of the observations and directions issued by the Hon'ble Apex Court in

Para No. 366.8 of the judgment passed by the Constitutional Bench passed of Hon'ble Apex Court in the case of **Indore Development Authority** (supra) which reads as under:-

"366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years."

7. In view of the above admitted factual aspects of the matter and in the light of the judgment of the Constitutional Bench of Hon'ble Supreme Court in the case of **Indore Development Authority** (supra), the writ petition stands allowed. The land acquisition proceedings arising out of the notification dated 25.07.1995 qua the petitioner stands lapsed.
8. Stay application and all pending applications, if any, also stand disposed of.
9. No orders as to costs.

(ANOOP KUMAR DHAND),J