

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. (S). 8512 OF 2014
(Arising out of SLP(C)No.2550 of 2009)

SHANTI DEVI & ORS.

Appellant(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO. (S). 8513 OF 2014
(Arising out of SLP(C) No. 23397/2008)

CIVIL APPEAL NO. (S). 8514 OF 2014
(Arising out of SLP(C) No. 29193/2008)

CIVIL APPEAL NO. (S). 8515 OF 2014
(Arising out of SLP(C) No. 30810/2008)

CIVIL APPEAL NO. (S). 8516 OF 2014
(Arising out of SLP(C) No. 928/2009)

CIVIL APPEAL NO. (S). 8517 OF 2014
(Arising out of SLP(C) No. 2705/2009)

CIVIL APPEAL NO. (S). 8518 OF 2014
(Arising out of SLP(C) No. 28507/2009)

CIVIL APPEAL NO. (S). 8519 OF 2014
(Arising out of SLP(C) No. 28523/2009)

CIVIL APPEAL NO. (S). 8524 OF 2014
(Arising out of SLP(C) No. 28533/2009)

O R D E R

Leave granted.

A large extent of land situate in the District of Rewari in the State of Haryana was notified by the State Government under Section 4 of the Land Acquisition Act, 1894 in terms of a notification issued on 27th January, 2003. The acquisition was

for the public purpose of development of a residential and commercial lay-out in the urban area of Rewari township. A declaration in terms of Section 6 of the Land Acquisition Act, 1894 followed on 23rd January, 2004. Aggrieved by the acquisition proceedings so initiated the land-owners appear to have filed a batch of writ petitions before the High Court of Punjab and Haryana at Chandigarh. One of these petitions happened to be C.W.P. NO.732 of 2006 titled "Hira Lal and Others v. State of Haryana and Others" which was heard and dismissed by a Division Bench of the High Court by an Order dated 17th December, 2007 upholding the validity of the acquisition proceedings in-question. The High Court appears to have noticed a scheme formulated by the State Government under which such of the lands as had come under construction, residential or otherwise, could be exempted provided the exclusion thereof did not affect the feasibility of the proposed lay-out scheme. Suffice it to say that, on principle, the High Court did not find any infirmity in the notification issued under Section 4 or the declaration that followed under Section 6 of the Land Acquisition Act, 1894. Several other writ petitions separately filed before the High Court against the same acquisition from

time to time were also dismissed by the High Court placing reliance upon its decision in Hira Lal's case (supra).

The present batch of appeals before us assail the correctness of the orders passed by the High Court primarily on the ground that the High Court had, while dismissing the writ petitions filed by the petitioners, failed to notice that there were super structures standing on different extents of land owned by the petitioners which should have been exempted from acquisition especially when such structures had been constructed before the issue of notification under Section 4 of the Land Acquisition Act, 1894. It was contended by learned counsel for the petitioners that the High Court had without adverting to that aspect simply followed the decision in Hira Lal's case (supra) and dismissed the writ petitions. It was alternatively argued by learned counsel for the petitioners that during the pendency of these petitions the Land Acquisition Act, 1894 stood repealed by Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 ("New Act", for short). It was contended that in terms of Section 24 of the New Act any acquisition proceedings initiated under the repealed Act would lapse if possession of the land under

acquisition was not taken over by the Authorities concerned or compensation payable for the same was not deposited in terms of the provisions of the said Act. It was argued that in most of the cases at hand neither the Authorities concerned had taken over the possession of the land under acquisition nor paid/deposited the compensation held payable to them. The acquisition proceedings have for that reason lapsed, argued the learned counsel..

On behalf of the respondents M/s. Narender Hooda, learned Additional Advocate General, and Govind Goel, Advocate, appearing for Haryana Urban Development Authority (HUDA), submitted that while the question whether the appellant/land-owners are entitled to the benefit of the scheme and resultant exemption from the acquisition proceedings for the lands acquired from them over which super structures have been constructed, could be examined by the High Court and the other aspects touching the validity of the acquisition proceedings must stand affirmed. They further contended that the supervening event of the old land acquisition Act having been repealed by the New Act, mentioned above, can also be raised before the High Court if the matters are remitted back to the High Court for consideration of

that aspect as was ordered in CIVIL APPEAL NO.(S).8104 OF 2014 and connected matters titled "SURJIT KAUR vs. STATE OF HARYANA & ORS., by this Court, where similar situations are prevailed.

There is, in our opinion, merit in the submission made by learned counsel for the respondents. Whether or not the proceedings under the Land Acquisition Act, 1894 have lapsed on account of the provisions of Section 24 of the New Act, is a matter that has not been put may have to be examined by the High Court in the context of the facts of each individual case. Since a certain amount of factual inquiry will be required for determining that question, we deem it proper to leave that inquiry to be held by the High Court. So also the question whether any super structures had been raised before the issue of the notification under Section 4, and if there were any such super structures whether exemption of such land from acquisition would affect the feasibility or the integrity of the scheme being implemented by HUDA, is a matter which does not appear to have been addressed by the High Court in the orders challenged before us. It is true that in the Hira Lal's case (supra) the High Court had upheld the acquisition proceedings but the question whether any one of the appellants had raised

any super structure and if so the extent thereof as also the question of exclusion of such land was permissible in terms of the scheme was something which could and ought to have been considered in the context of each individual case. Inasmuch as the High Court has not adverted to that question, it may call for a remand for its determination.

In the circumstances therefore and for the reasons stated hereinabove we see no difficulty in setting aside the orders passed by the High Court and remitting the matters back to the High Court to examine the following two limited issues:

(1) Whether the lands being acquired from the ownership of the appellants qualify for exemption in terms of the relevant scheme and policy according to which such of the lands as are already used for construction purpose before the issue of the notification under Section 4 of the Land Acquisition Act, 1894, can be exempted.

(2) Whether the acquisition proceedings initiated in terms of the notification dated 27th January, 2003 and declaration dated 23rd January, 2014 have lapsed in terms of Section 24 of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

We make it clear that the challenge to the acquisition proceedings on all other grounds shall be taken as concluded and shall not be open for any further debate before the High Court.

The appeals are accordingly allowed and disposed of in the above terms leaving the parties to bear their own costs.

Interim arrangement wherever made shall continue till the High Court disposes of the matters afresh. The parties are directed to appear before the High Court on Monday, the 13th October, 2014.

.....J
(T.S. THAKUR)

.....J
(R. BANUMATHI)

NEW DELHI
DATED 5th September, 2014.

ITEM NO.23

COURT NO.3

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 2550/2009

(Arising out of impugned final judgment and order dated 14/02/2008 in CWP No. 713/2006 passed by the High Court Of Punjab & Haryana At Chandigarh)

SHANTI DEVI & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(with interim relief and office report)

WITH SLP(C) No. 23397/2008

(With Interim Relief and Office Report)

SLP(C) No. 29193/2008

(With Office Report)

SLP(C) No. 30810/2008

(With Interim Relief and Office Report)

SLP(C) No. 928/2009

(With Office Report)

SLP(C) No. 2705/2009

(With Office Report)

SLP(C) No. 28507/2009

(With Office Report)

SLP(C) No. 28523/2009

(With appln.(s) for c/delay in filing SLP and Office Report)

SLP(C) No. 28533/2009

(With Office Report)

Date: 05/09/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Dinesh C. Yadav, Adv.
Mr. Vibhuti Sushant Gupta, Adv.
Dr. Kailash Chand, Adv.

Mr. Jagjit Singh Chhabra, Adv.

Mr. Pardeep Gupta, Adv.

Mr. K. K. Mohan, Adv.

Mr. Manoj Swarup, Adv.

Mr. Ankit Swarup, Adv.

Mr. Ajay Kumar, Adv.

Mr. Karan Kapoor, Adv.

Mr. Ranbir Singh Yadav, Adv.

Ms. Anzu K. Varkcy, Adv.

Mr. Annam D. N. Rao, Adv.

Mr. Sudipto Sircar, Adv.

Mr. Annam Venkatesh, Adv.

For Respondent(s) Mr. Narender Hooda, Sr. Adv., AAG

Mr. Vineet Malik, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Govind Goel, Adv.

Mr. Sanjay Kumar Yadav, Adv.

Mr. Ankit Goel, Adv.

Dr. Kailash Chand, Adv.

Mr. B. S. Banthia, Adv.

Ms. Anubha Agarwal, Adv.

Dr. Monika Gusain, Adv.

Mr. Krishanu Adhikary, Adv.

Mr. Ashish Kumar, Adv.

Ms. Shruti Shasin, Adv.

Mr. Subramonium Prasad, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

In terms of the signed order, the appeals are allowed and disposed of:

"...

In the circumstances therefore and for the reasons stated hereinabove we see no difficulty in setting aside the orders passed by the High Court and remitting the matters back to the High Court to examine the following two limited issues:

- (1) Whether the lands being acquired from the ownership of the appellants qualify for exemption in terms of the

relevant scheme and policy according to which such of the lands as are already used for construction purpose before the issue of the notification under Section 4 of the Land Acquisition Act, 1894, can be exempted.

(2) Whether the acquisition proceedings initiated in terms of the notification dated 27th January, 2003 and declaration dated 23rd January, 2014 have lapsed in terms of Section 24 of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

We make it clear that the challenge to the acquisition proceedings on all other grounds shall be taken as concluded and shall not be open for any further debate before the High Court.

The appeals are accordingly allowed and disposed of in the above terms leaving the parties to bear their own costs.

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(Mahabir Singh)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)