

ITEM NO.30

COURT NO.8

SECTION IV-B

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).13883/2018
(Arising out of impugned final judgment and order dated 27-09-2017
in CWP No.11316/2016 passed by the High Court of Punjab & Haryana
at Chandigarh)

THE STATE OF HARYANA DEPARTMENT OF URBAN ESTATE
THROUGH LAND ACQUISITION COLLECTOR & ORS.

PETITIONER(S)

VERSUS

RAM BHAGAT YADAV & ORS.

RESPONDENT(S)

(IA No.123603/2018-APPLICATION FOR VACATION OF INTERIM ORDER and IA
No.68558/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.111810/2018-GRANT OF INTERIM RELIEF and IA No.73945/2018-
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA
No.120627/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
ANNEXURES)

WITH

SLP (C) No.26058/2018 (IV-B)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
131343/2018)

Diary No(s).32828/2018 (IV-B)

(FOR CONDONATION OF DELAY IN FILING ON IA 128468/2018 FOR EXEMPTION
FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 128469/2018 and IA
No.148702/2018-APPLICATION FOR DIRECTION)

Date : 11-12-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s)

Mr.P.S.Patwalia, Sr.Adv.
Mr.B.K.Satija, Adv.
Mr.Vishwa Pal Singh, Adv.

Dr.Monika Gusain, AOR

Mr.Sanjay Kumar Visen, AOR

For Respondent(s)

Mr.Tarun Johri, Adv.
Mr.Ankit Saini, Adv.

Mr.Ravinder Kumar Yadav, Adv.

Mr.Vinay Mohan Sharma, Adv.

Mr.Vinayak Sharma, Adv.

Mr.Vikas Tiwari, Adv.
Mr.D.K.Sinha, Adv.

Mr.Deepender Hooda, Adv.
Mr.Atishi Dipankar, Adv.

Mr.Shoeb Alam, Adv.
Mr.D.S.Parmar, Adv.
Ms.Priyanka Das, Adv.
Mr.Siddhant Buxy, Adv.
Ms.Abha R. Sharma, Adv.

Mr.D.S.Parmar, Adv.
Ms.Priyanka Das, Adv.
Ms.Sujeeta Srivastava, Adv.

Mr.Dharmendra Kumar Sinha, AOR

UPON hearing the counsel the Court made the following
O R D E R

IA No.123603/2018 in S.L.P.(C) No.13883/2018

The Respondent-land owners have filed the present I.A.No.123603/2018 praying for vacation of interim order dated 17.05.2018 passed by this Court in S.L.P. (C) No.13883/2018; or in the alternate, modification of the interim order by passing an order of status quo, in the present special leave petition.

The I.A. was taken up for hearing today. Counsel for both parties were heard at length. The factual matrix in which the present I.A. has been filed, is briefly stated as under.

The present proceedings arise out of a Notification issued under Section 4 of the Land Acquisition Act, 1894 ("the 1894 Act") for the public purpose of Metro Extension to Bahadurgarh (Jhajjar). Prior to the issuance of the declaration under Section 6, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("the 2013 Act") came into force on 01.01.2014. Thereafter, the declaration under Section 6 of the 1894 Act read with the provisions of Section 24(1)(a) of

the 2013 Act, was passed on 02.12.2014. Subsequently, on 01/05.04.2016, the award was passed by the Land Acquisition Collector, Urban Estate, Rohtak (Haryana). It was stated by the counsel for the State of Haryana that compensation had been computed in accordance with the 2013 Act, which was deposited in the court of the Additional District Judge.

The land owners challenged the Notifications for acquisition under Section 4 and 6 of the 1894 Act before the Punjab & Haryana High Court by writ petition being C.W.P.No.11316/2016. At the time of admission of the writ petition, the High Court *vide* an ex-parte interim order dated 01.06.2016, ordered that status quo shall be maintained till the next date of hearing.

The Delhi Metro Rail Corporation Limited ("DMRC") filed 2 applications in the writ petition for impleadment, and for vacation of the ex-parte interim order dated 01.06.2016. The High Court *vide* order dated 25.07.2016, recorded the submission of the DMRC, stating that the construction of the entry/exist line to the Bahadurgarh Metro Depot was near completion, as more than 90% of the work had been completed. It was stated that the total area required for construction of the extension was 11.182 kms, out of which construction was completed on 10.8 kms. The counsel for the land owners/writ petitioners fairly stated before the court that keeping in view the nature of relief sought in the writ petition i.e. re-determination of compensation in accordance with the 2013 Act, the ad interim order may be suitably modified. In this view of the matter, the High Court vacated the interim order of status quo dated 01.06.2016, and permitted the DMRC to continue with the construction work.

The Division Bench of the High Court passed a further order on 21.11.2016, directing the writ petitioners to hand over physical possession of the remaining area to the DMRC.

The Deputy Commissioner, Jhajjar and SDM, Jhajjar were directed to ensure that the ongoing metro construction work was carried out without any interference or interruption.

The writ petition was allowed *vide* judgment and order dated 27.09.2017, wherein it was held that the Notification under Section 4 of the 1894 Act had lapsed, since the declaration under Section 6 of the 1894 Act had not been issued prior to the repeal of the Land Acquisition Act, 1894.

Aggrieved by the said judgment, the State of Haryana filed the present special leave petition. This court *vide* order dated 17.05.2018, was pleased to issue notice and ordered stay of the operation of the impugned order.

The counsel for the State of Haryana and the DMRC submitted that since the Maintenance Depot had been fully constructed, and the DMRC was in the process of laying the Main Line to the Maintenance Depot, the order of stay of the operation of the High Court judgment ought to be vacated. Furthermore out of a stretch of 0.7 kms, it was only an area of 300 meters which was owned by the respondent-land owners.

In view of the fact that the project is near completion, and the respondent-land owners had limited the relief to compensation before the High Court, the IA No.123603/2018 for vacation of stay, and grant of status quo, is rejected.

The main special leave petition be listed for hearing along with the connected batch of matters.

I.A.No.148702/2018 in S.L.P.(C) No.32828/2018

The respondent-land owner has filed the present I.A.No.148702/2018 praying for grant of status quo during the pendency of the special leave petition.

The I.A. was taken up for hearing today. Counsel for both parties were heard at length. The factual matrix in which the present I.A. has been filed, is briefly stated as under.

The present proceedings arise out of a Notification issued under Section 4 of the Land Acquisition Act, 1894 ("the 1894 Act") for the public purpose of construction of a sewerage treatment plant. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("the 2013 Act") came into force on 01.01.2014. Thereafter, the declaration under Section 6 of the 1894 Act read with the provisions of Section 24(1)(a) of the 2013 Act, was passed on 08.01.2014. Subsequently, on 29.12.2015, the award was passed by the Land Acquisition Collector, Urban Estate, Faridabad (Haryana). It was stated by the counsel for the State of Haryana that the compensation deposited with the Additional District Judge has been computed in accordance with the 2013 Act.

The respondent-land owner had challenged the Notifications under Sections 4 and 6 before the Punjab & Haryana High Court by way of Writ Petition being C.W.P. No.1851/2016. At the time of admission, the High Court *vide* order dated 29.01.2016, directed the parties to maintain status quo regarding possession.

The Writ Petition was allowed *vide* Judgment and Order dated 05.09.2017, wherein it was held that the Notification under Section 4 of the 1894 Act had lapsed, since the declaration under Section 6 of the 1894 Act had not been issued prior to the repeal of the Land Acquisition Act, 1894.

Aggrieved by the Judgment passed by the High Court, the State of Haryana filed the present Special Leave Petition. This Court *vide* order dated 14.09.2018, was

pleased to issue notice and ordered stay of the operation of the impugned judgment.

The counsel for the State of Haryana submitted that a vast stretch of land admeasuring approximately 279 canals was acquired for the aforesaid project in two villages, viz. Village Badshahpur and Village Palwali. The land under acquisition includes the land owned by the Respondent-Landowner admeasuring approximately 10 canals and 5 marlas in Village Badshahpur. The State had constructed almost 95% of the project, which will cater to almost 2 lac people residing in several multi-storeyed buildings constructed in the area. In so far as Village Palwali is concerned, the entire acquired land had been taken over, and compensation paid to the landowners.

In view of the fact that the Project is near completion and is in public interest that the Project is completed at the earliest, I.A.No.148702/2018 for vacation of the interim order of stay of the operation of the impugned judgment of the High Court is dismissed.

The issue of compensation will be decided in the main Special Leave Petition which is directed to be listed for hearing alongwith the connected matters.

S.L.P.(C) No.26058/2018

List the matter along with other connected matters.

(Ashok Raj Singh)
Court Master

(Chander Bala)
Court Master