

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 15168 of 2015
Date of decision: 28.7.2015**

Rajbir and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Kulbhushan Sharma, Advocate for the petitioners.

Ajay Kumar Mittal,J.

1. The petitioners seek quashing of notifications dated 25.11.2008 and 7.1.2009 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act") and award dated 24.11.2009, Annexures P.4 to 6 respectively in respect of their land, as in view of the provisions of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act"), the entire acquisition proceedings have lapsed because neither the possession has been taken from the petitioners nor compensation has been paid to them.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were

owners in possession of the land situated in Mauja Fajilpur Jharsa, Tehsil and District Gurgaon which had been used as *Gait/gitwar* for storing and keeping fuel, *kori bitoras*, *dungcakes* and *gobarkhad* etc. since 1972. Notification under Section 4 of the Act was issued on 25.11.2008, Annexure P.4 followed by notification under Section 6 on 7.1.2009, Annexure P.5. The award was passed on 24.11.2009, Annexure P.6. According to the petitioners, possession has not been taken from them and no compensation has been paid to them till date. The petitioners submitted a representation dated 31.3.2015, Annexure P.7 to the Land Acquisition Collector for release the land in view of the provisions of section 24(2) of the 2013 Act. Having received no response, the petitioners are before this court through the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. It is the admitted position that the land of the petitioners was acquired in the year 2008 for a public purpose, namely, for the development and utilization for 90 meters wide Southern Periphery road alongwith 30 meters wide green belt on both sides from National Highway 8 upto Sector 72 at Gurgaon. The award was passed on 24.11.2009. The claim of the petitioners under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 24.11.2009. It would be expedient to refer to Section 24(2) of the 2013 Act, which is in the following terms:-

“24. (2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the

appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. The award having been announced in the present case on 24.11.2009 does not satisfy the essential requirements of Section 24(2) of the 2013 Act. Learned counsel for the petitioners has not been able to substantiate that the petitioners have any claim under Section 24(2) of the 2013 Act. Further, no illegality or infirmity has been pointed out by the learned counsel for the petitioners in the impugned notifications. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 28, 2015
'gs'

(Rekha Mittal)
Judge