

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

**CWP No.15938 of 2014
Date of decision: 28.5.2015**

Harvant Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Ritesh Parshad, Advocate for
Mr. Vikram Singh, Advocate for the petitioner.

Mr. Sudeep Mahajan, Addl.A.G.Haryana.

Mr. Ajay Nara, Advocate for respondent No.3

Ajay Kumar Mittal, J.

1. Prayer in this petition filed under Article 226 of the Constitution of India is for quashing the notifications dated 3.1.2007 and 2.1.2008 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act"), Annexures P.1 and P.2 respectively. Further prayer has been made for releasing the land of the petitioner as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act") as he is still in possession as per revenue record.

2. Briefly, the facts as narrated in the petition, necessary for adjudication of the controversy involved herein, may be noticed.

Notification under section 4 of the 1894 Act was issued on 3.1.2007, Annexure P.1 for a public purpose, namely, for the development and utilization of land as residential, commercial, transport and communication area for Sector 1, Taraori, Tehsil and District Karnal under the Haryana Urban Development Authority Act, 1977 by the State. Notification under section 6 of the said Act was issued on 2.1.2008, Annexure P.2. The petitioner filed objections under section 5A of the 1894 Act in which the report had come that there was construction prior to the notification. The petitioner submitted a representation on 10.1.2014, Annexure P.6 for release of land in view of Section 24(2) of the 2013 Act as he was in physical possession of the land in dispute. He sent another representation dated 20.4.2014, Annexure P.7. Having received no response, he filed the instant writ petition.

3. A written statement has been filed by the Land Acquisition Officer, Urban Estate, Haryana, Panchkula on behalf of respondent No.2 wherein it has been inter alia stated that the award was announced on 31.12.2009 and possession of the land in dispute was taken over and handed over to the Haryana Urban Development Authority. In the preliminary objection No.5, it was stated as under:-

“5. That the claim of petitioner does not fall in the ambit of Section 24(2) of the Right of Fair Compensation and Transparency in land Acquisition, Rehabilitation and resettlement Act, 2013 (herein referred as LARR Act, 2013). That it is important here to mention that the scope of Section 24(2) begins when an award under Section 11 has been made 5 years or more prior to the commencement of the LARR Act, 2013. In the present case the award was announced on dated 31.12.2009 and the LARR Act, 2013 came into operation on dated 31.12.2013. Hence the present case is outside the scope

of Section 24(2) of LARR Act, 2013.

6. That the total amount of compensation of the petitioner which was ₹ 50,18,516/- has already been deposited in the court of learned Additional District Judge, Karnal vide Bank Draft No.659630 and 659645 on dated 13.6.2014. Hence now nothing is due on the answering respondent to pay the petitioner.”

4. We have heard learned counsel for the parties.

5. It is the admitted position that the land of the petitioner was acquired in the year 2008 for a public purpose, namely, for the development and utilization of land as residential, commercial, transport and communication area for Sector 1, Taraori, Tehsil and District Karnal under the Haryana Urban Development Authority Act, 1977 by the State. The petitioner is challenging the acquisition proceedings through the present writ petition in the year 2014 after a lapse of more than six years without any justified explanation for the delay.

6. Even the claim of the petitioner under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 31.12.2009. 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.”

7. 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 31.12.2009 does not satisfy the essential requirements of Section 24(2) of the 2013 Act. Further, the possession of the land had already been taken over by the Government and handed over to the HUDA, as stated by the respondents in the preliminary objections in the written statement.

8. Learned counsel for the petitioner has not been able to substantiate that the petitioner has any claim under Section 24(2) of the 2013 Act. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 28, 2015
'gs'

(Rekha Mittal)
Judge