

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

**CWP No.26243 of 2014
Date of decision: 11.05.2015**

Pushya Constructions Private Limited

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

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

Present: Mr. Yashpal Thakur, Advocate for
Mr. Adarsh Jain, Advocate for the petitioner.

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

Ajay Kumar Mittal, J.

1. Prayer in this petition filed under Article 226 of the Constitution of India is for declaring acquisition proceedings to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act") and for quashing notifications dated 15.6.2006 and 14.6.2007 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act") and award dated 9.6.2009, Annexures P.5, P.6 and P.10 respectively.

2. Briefly, the facts as narrated in the petition, necessary for adjudication of the controversy involved herein, may be noticed. The petitioner is a company incorporated under the provisions of the Companies

Act, 1956 with the object of purchasing lands and to develop the same for residential, commercial and other purposes which includes setting up of Group Housing Colonies. The petitioner purchased the land situated in the revenue estate of Palwal, Tehsil and District Palwal for setting up a residential Group Housing Colony in Sector 12, Palwal. The State of Haryana issued notification dated 15.6.2006, Annexure P.5 under Section 4 of the Act for development and utilization as commercial and residential public utility for Sector 12, Palwal which was followed by notification under Section 6 of the Act on 14.6.2007, Annexure P.6. The petitioner filed CWP No.21718 of 2008 (***Pushya Constructions Pvt. Limited vs. State of Haryana and others***) challenging the acquisition proceedings wherein while issuing notice of motion, interim order of stay dispossession was passed by this Court. Ultimately, vide order dated 4.3.2014, Annexure P.9, the writ petition was dismissed as withdraw with permission to the petitioner to pursue remedy before the authorities. During the pendency of the writ petition, the Land Acquisition Collector made award dated 9.6.2009, Annexure P.10. Where there was order of stay dispossession, the possession was not taken as in the case of the petitioner. According to the petitioner, after the award, a period of five years has expired but neither the compensation has been received by the petitioner nor the same has been deposited in court in terms of section 31 of the 1894 Act. The petitioner continues to be in possession of the land in dispute till date and the construction is also existing on the same. Hence the instant petition with the prayer as mentioned above.

3. A short affidavit has been filed by Land Acquisition Collector, Urban Estates, Haryana, Faridabad on behalf of respondent No.2. It has

been inter alia stated therein that the landowners who did not come forward to receive the payment, the same is lying deposited in the Land Acquisition Collector's account. Physical possession of the petitioner's land was not taken due to stay dispossession by this court vide order dated 24.12.2008.

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 2006 for a public purpose namely for development and utilization as commercial and residential public utility for Sector 12, Palwal. The petitioner challenged the acquisition proceedings through CWP No.21718 of 2008 in which interim order regarding stay of dispossession was passed by this court. The award was announced on 9.6.2009.

6. 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 on 9.6.2009 does not satisfy the essential requirements of Section 24(2) of the 2013 Act.

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

(Ajay Kumar Mittal)
Judge

May 11, 2015
'gs'

(Rekha Mittal)
Judge