

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9683 of 2004 (O&M)

Date of Decision: 29.11.2016

Chand Singh & Ors.

... Petitioners

VS.

UT Chandigarh & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes / No |
| 4. To be referred to the Reporters or not? | Yes / No |
| 5. Whether the judgment should be reported in the Digest? | Yes / No |

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Alok Mittal, Advocate;
Mr. Aashish Chopra, Advocate
Mr. Tushar Sharma, Advocate
for the petitioners

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Shekhar Verma, Advocate;
Mr. Vishal Sodhi, Advocate for UT Chandigarh

Ms. Deepali Puri, Advocate for MC Chandigarh

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP Nos.9683 of 2004; 4373 of 2007; 12548, 18760, 19097 of 2014; 11898, 11920, 15271 of 2015; 1627, 20273 of 2016 as the point in issue is common in nature. For brevity, the facts are being taken from CWP No.9683 of 2004.

(2) There are 54 petitioners in this case who seek a declaration that the acquisition of their land/properties situated within the revenue estate of village Kajheri, UT Chandigarh vide award No.558 dated 21.03.2003 shall be deemed 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.

(3) The respondents have furnished a chart giving details in a tabulated form for the assistance of this Court wherein it has been fairly conceded that neither possession was taken from the petitioners nor compensation was paid or deposited in the Reference Court before 01.01.2014. It is fairly admitted that the compensation amount of ₹ 5,16,23,737/- has been deposited under Section 31 of the Land Acquisition Act, 1894 with the District Court on 18.07.2014 only. The respondents, however, have questioned the ownership of some of the writ-petitioners like at Sr.No.4,8,10,14,23,25,31to36, 43, 44, 47 & 54.

(4) For the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in CWP No.17464 of 2007 titled as Satnam Singh & Anr. vs. State of Haryana & Ors., the instant writ petition are allowed and the impugned acquisition is declared to have lapsed on both grounds as contained in Section 24(2) of 2013 Act. Such a declaration shall be subject to the condition that the petitioners whose ownership is doubtful, shall satisfy their title before the Land Acquisition Collector with documentary proof etc. as and when the occasion arises. In case the claim of the petitioner(s) is rejected by the Land Acquisition Collector, liberty is granted to the aggrieved petitioner(s) to approach the appropriate forum.

(5) If the petitioners have raised any unauthorized construction at the acquired site, the respondent-authorities shall be at liberty to regularize such construction on deposit of requisite charges by the petitioner(s) in accordance with the Rules/Byelaws.

(6) Having held so, we are further of the view that since Section 24(2) of 2013 Act itself in so many words contemplates the possibility of re-acquisition of the land/property in respect whereof the previous

acquisition has lapsed, it is necessary to direct the petitioners to maintain *status quo* re: creation of third party rights; to keep the land/property free from all types of encumbrances and not to change the nature of land/property for a period of one year so that meanwhile the respondent-State may, if such property is needed for a “public purpose”, again acquire it. Such a direction is necessitated also for the reason that in numerous cases State or its agencies have taken possession in part and development works have been executed except over that land/property in litigation. Those development works ought to be completed in public interest and the only consequence of lapsing of previous acquisition, mostly due to fault of the Government Officers/ Officials, would be that the owners of such land/property will be entitled to compensation and other benefits admissible under the 2013 Act.

(7) Ordered accordingly.

(Surya Kant)
Judge

29.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge