

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.11311 of 2006 (O&M).

Date of Decision: November 30, 2016

Smt.Krishna Gosain

.....Petitioner

versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Dhawal P.S.Ahluwalia, Advocate, for the petitioner.

Ms.Palika Monga, DAG, Haryana.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The petitioner assails the acquisition of her land measuring 4 kanal 7 marla situated within the revenue estate of village Narsinghpur, Tehsil and District Gurgaon, fully detailed in para No.2 of the writ petition. The said acquisition was made vide Award dated 27.01.2006. The petitioner claims to have raised two storeyed building at the site well before issuance of notification under Section 4 of the Land Acquisition act, 1894 and an entry to this effect was duly mentioned in the revenue record also (P-2). Though the compensation amount is said to have been deposited with the Reference Court on 11.04.2008 but it is the conceded position that the site is in continuous uninterrupted possession of the petitioner.

In the light of the later development, namely, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act') having come into force

w.e.f. 01.01.2014, the additional question which arises for consideration is whether the impugned acquisition shall be deemed to have lapsed under Section 24(2) of the 2013 Act?

Since the petitioner has retained the possession for a period of five years or more from the date of passing the Award and before the new Act (2013 Act) came into force w.e.f. 01.01.2014, there can be no escape but to hold that the impugned acquisition is deemed to have lapsed under Section 24(2) of the 2013 Act.

For the detailed reasons assigned in the order dated 27.10.2016 passed in **CWP No.17464 of 2007 (Satnam Singh and another versus The State of Haryana and others)** and connected matters, the instant writ petition is allowed and it is declared that acquisition of the petitioner's land vide Award dated 27.01.2006 is deemed to have lapsed.

Having held so, we are surely 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 petitioner to maintain *status quo* re: creation of third party rights; to keep the land/property free from all types of incumbrances 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.

[SURYA KANT]
JUDGE

November 30, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No