

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-15597-CWP-2014 in/and
CWP No.13778 of 2007 (O&M)**

Date of Decision: 12.12.2016

Vijay Singh & Anr.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

CWP No.21594 of 2008 (O&M)

Virender Singh & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

CWP No.5344 of 2010 (O&M)

Khazan Singh & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

- | | |
|--|-----------------|
| 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. ML Sharma, Advocate;
Mr. HN Sahu, Advocate;
Mr. Gopal Sharma, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

SURYA KANT, J. (Oral)

(1) This order shall dispose of the above-captioned writ petitions as the common question which arises for consideration in all the cases is whether the acquisition of land shall be deemed to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency

(2) Brief facts of each case are extracted for ready reference:-

CWP No.13778 of 2007

(3) The petitioners are residents of village Sukhpura, District Rohtak. They are aggrieved by acquisition of their land measuring 7 kanal 12 marla situated within the revenue estate of Village Pada, Tehsil and District Rohtak and fully described in para 1 of the writ petition which was acquired vide award dated 29.12.2004. The petitioners have filed Civil Misc. Application No.15597-CWP of 2014 to the effect that the subject acquisition is 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. It is averred in para 10 of the application that the petitioners are still in possession of the acquired property by virtue of the interim order passed by this Court. It is further pointed out that the petitioners have neither received the compensation nor the same has been deposited with the Reference Court in terms of Section 31(2) of the Land Acquisition Act, 1894.

(4) The Land Acquisition Collector, Urban Estate, Rohtak has filed status report dated 06.08.2015 and in para 3 thereof, it is claimed that the possession of land has 'vested' with the Haryana Urban Development Authority since the date the award was passed. It is admitted that though the compensation amount was tendered but the petitioners have not lifted the same. It is further pointed that the petitioners have not communicated regarding withholding their consent to receive the compensation so that it could be deposited with the Reference Court. It thus stands admitted that the compensation amount

was never deposited with the Reference Court under Section 31(2) of the 1894 Act.

CWP No.21594 of 2008

(5) The three petitioners in this case are brothers. Their land measuring 3 kanal 2 marla (as per the respondents), details whereof are given in the headnote, situated within the revenue of Village Pada, Tehsil and District Rohtak was acquired vide award 29.12.2004. They now seek a declaration to the effect that the impugned acquisition is deemed to have lapsed on one of the grounds contained in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(6) On 17.10.2016, during the course of hearing, the petitioners specifically took the stand that no compensation amount has been paid within five years from the date of award till the new Act came into force w.e.f. 01.01.2014 and it has also not been deposited with Reference Court as per Section 31(2) of the 1894 Act, hence one of the ingredient of Section 24(2) of the 2013 Act is fully satisfied.

(7) No status report has been filed by Land Acquisition Collector to counter the aforesaid averments, which are deemed to have been admitted. During the course of hearing also, the above-stated factual plea was not controverted.

CWP No.5344 of 2010

(8) The land of the petitioners, who are residents of village Pada, Tehsil and District Rohtak, measuring 9 kanal 5 marla situated within the revenue estate of their village, fully described in the headnote, was acquired vide award 29.12.2004. A declaration is now sought to the

effect that the impugned acquisition is deemed to have lapsed on one of the grounds contained in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(9) On 17.10.2016, during the course of hearing, the petitioners took the specific stand that no compensation amount has been paid within five years from the date of award till the new Act came into force w.e.f. 01.01.2014 and it has also not been deposited with Reference Court as per Section 31(2) of the 1894 Act, hence one of the ingredient of Section 24(2) of the 2013 Act is fully satisfied.

(10) No status report has been filed by Land Acquisition Collector to counter the aforesaid averments, which are deemed to have been admitted. During the course of hearing also, the above-stated factual plea was not controverted.

Conclusions:

(11) Having heard learned counsel for the parties at a considerable length and after going through the record, the solitary question which requires determination is whether the impugned acquisition is deemed to have lapsed on account of the existence of conditions contained in Section 24(2) of the 2013 Act?

(12) It is undeniable that compensation amount has not been paid to the petitioners or deposited with the Civil or Reference Court as per Section 31(2) of the 1894 Act. It may further be seen from the date of Awards in each case that the same were passed on 29.12.2004 i.e. five years or more prior to the new Act came into force on 01.01.2014. It thus stands established that one of the statutory stipulation contained in

Section 24(2) *re:* non-payment of compensation or its deposit for a period of five years or more from the date of passing of the award till the new Act came into force has been indisputably established in these cases.

(13) The question of applicability of Section 24(2) of 2013 Act, in the event of one or the other above-stated admitted fact, has been elaborately dealt with vide order dated 27.10.2016 rendered in **CWP No.17464 of 2007** titled as **Satnam Singh & Anr. vs. State of Haryana & Ors.**

(14) For the reasons assigned in the cited decision, these writ petitions are allowed and it is declared that acquisition of lands of the petitioners shall be deemed to have lapsed under Section 24(2) of the 2013 Act.

(15) 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.

(16) Ordered accordingly.

(Surya Kant)
Judge

12.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge

.