

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1646 of 2006 (O&M)

Date of Decision: October 24, 2016

Shamsher Singh and another

.....Petitioners

versus

Union Territory, Chandigarh and another

.....Respondents

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

**HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

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Present: Ms.Aarti, Advocate, for Mr.Rajiv Kataria, Advocate,  
for the petitioners  
Mr.Suvir Sehgal, Senior Standing Counsel with  
Mr.Vishal Sodhi, Advocate, for the respondents.

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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?

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**Surya Kant, J.** (Oral)

The petitioners have laid challenge to the notifications dated 28.06.1990 and 24.06.1991 (P-1 & P-2, respectively), issued under Section 4 & 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), respectively, followed by the Award dated 11.08.2004, whereby the land of Manimajra, U.T. Chandigarh was acquired for the development of residential-cum-commercial complex in Scheme No.3, Pocket No.9 for the Notified Area Committee, Manimajra, UT, Chandigarh. The total acquired land was 56.53 acres out of which petitioners' land is stated to be measuring 30 kanal 19 marla.

During the pendency of this writ petition, the petitioners have moved Civil Misc. No.11420 of 2016 seeking declaration to the effect that

the impugned acquisition is deemed to have lapsed under Section 24(2) of

the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short ‘the 2013 Act’).

Learned Senior Standing counsel for the respondents, on the basis of instructions, does not dispute the fact that compensation amount qua the petitioners' land has been deposited as per Section 31(2) of 1894 Act only on 21.08.2014, i.e., after the new Act (2013 Act) has come into force. The said deposit of compensation amount is inconsequential and cannot alter the legal position as on 01.01.2014 with the new Act came into force and its Section 24(2) declares that where compensation amount was not paid or possession not taken within five years after passing of the Award and before the new Act came into force, such acquisition shall be deemed to have lapsed. The aforesaid provision thus applies with full force in the case in hand. The impugned acquisition qua the petitioners' land is thus declared to have lapsed.

The petitioners are however directed 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 respondents may, if such property is still needed for a “public purpose”, again acquire the same.

The writ petition stands disposed of accordingly.

[SURYA KANT]  
JUDGE

October 24, 2016  
*mohinder*

[SUDIP AHLUWALIA]  
JUDGE

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

CM Nos.12072-73 1838 and 15402 of 2006.  
in CWP No.1646 of 2016.

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Shamsher Singh and another vs. Union Territory, Chandigarh and another

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Present : Ms.Aarti, Advocate, for  
Mr.Rajiv Kataria, Advocate,  
for the applicant-petitioners.  
Mr.Suvir Sehgal, Senior Standing counsel with  
Mr.Vishal Sodhi, Advocate, for the respondents.

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CM Nos.12072-73, 1838 and 15402 of 2006

The applications are dismissed as infructuous.

**(SURYA KANT)**  
**JUDGE**

**October 24, 2016**  
*mohinder*

**(SUDIP AHLUWALIA)**  
**JUDGE**