

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.16354 of 2007 (O&M).

Date of Decision: December 14, 2016

Smt.Malti Devi and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.S.S.Dinarpur, Advocate, for the petitioners.

Ms.Palika Monga, Deputy Advocate General, 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)

CM No15914 of 2016

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and amended writ petition is taken on record.

CM stands disposed of.

CWP No.16354 of 2007

The land of the petitioners fully described in para No.2 of the writ petition and situated within the revenue estate of village Sunderpur, Tehsil Thanesar, District Kurukshetra, was acquired vide Award dated 21.07.2006. They now seek a declaration 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 (for short, 'the 2013 Act').

The Land Acquisition Collector, Urban Estate, Panchkula has filed the status report and in para No.5 thereof, it is admitted that the

compensation amount was not accepted by the petitioners and it is still lying deposited in the account of the Land Acquisition Collector. In other words, compensation has not been deposited with the Reference Court under Section 31(2) of the Land Acquisition Act, 1894. As regard to possession, it may be seen that dispossession of the petitioners was stayed by this Court on 19.10.2007, i.e., after the passing of award which is still operative. Thus, the petitioners are in continuous possession of the acquired land for a period of five years from the date of passing of Award and before the new Act (2013 Act) came into force w.e.f. 01.01.2014.

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 21.07.2006 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.

In view of the fact that acquisition has lapsed under Section 24 (2) of 2013 Act, it is not necessary to go into the merits of the case.

[SURYA KANT]
JUDGE

December 14, 2016
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Whether speaking/reasoned
Whether Reportable

[SUDIP AHLUWALIA]
JUDGE

Yes/No
Yes/No