

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.5268 of 2006 (O&M).

Date of Decision: November 30, 2016

Desh Raj and others

.....Petitioners

versus

The State of Haryana and others

.....Respondents

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

Present: Mr. Shailendra Jain, Sr. Advocate with
Mr. Sahil Nayyar, Advocate, for the petitioners.
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 petitioners are residents of village Narsinghpur, Tehsil and District Gurgaon. They have laid challenge to the acquisition of their small pieces of land/plots fully described in para No.2 of the writ petition. As per the averments, each petitioner has raised construction comprising residential houses/shops or rooms etc. over the plots. The record reveals that the writ petition was taken up alongwith CWP No.18061 of 2006 and interim order was directed to continue till the next date of hearing. Resultantly, possession of the petitioners is still protected.

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 has arisen for consideration

is whether the impugned acquisition shall be deemed to have lapsed under

Section 24(2) of the 2013 Act?

It is the conceded position that the petitioners are still in physical possession of their respective sites. Except one co-sharer, the petitioners were neither paid the compensation amount nor it was deposited with the Reference Court in accordance with Section 31 of the Land Acquisition Act, 1894. Since the petitioners are in continuous possession of the acquired property 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 and the compensation amount has been paid or deposited within that period as per the law, there can be no escape but to hold that the impugned acquisition has 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 petitioners' 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 petitioners 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