

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-14993-CWP-2016 in/and
CWP No.12991 of 2014 (O&M)**

Date of Decision: 09.12.2016

SK Malhotra & Anr.

... Petitioners

VS.

UT Chandigarh & 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. Shailendra Jain, Senior Advocate with
Mr. Sahil Nayyar, Advocate for the petitioners

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Shekhar Verma, Advocate;
Mr. Vishal Sodhi, Advocate for UT Chandigarh

Ms. Deepali Puri, Advocate for MC Chandigarh

SURYA KANT, J. (Oral)

(1) The petitioners seek a declaration that the acquisition of their land (11 kanal 10 marlas of petitioner No.1 and 4 kanal 18 marlas of petitioner No.2) fully described in para 3&4 of the writ petition and situated within the revenue estate of village Manimajra, UT Chandigarh 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 the reason that the no compensation was paid nor deposited with the Reference Court as per Section 31 of the Land Acquisition Act, 1894. The above-stated land was acquired vide award dated 09.11.1992.

(2) Leaned senior counsel for UT Chandigarh has handed over a chart wherein besides disputing the ownership of the petitioners, it is averred

that the land under acquisition is 0.69 acre as against what is being claimed by the petitioners in para-1 above i.e. total 16 kanal 8 marla. As regard to compensation, it is mentioned in the affidavit that the compensation was deposited with the Reference Court on 23.05.2014 i.e. after the new Act came into force.

(3) Since the respondents have admitted to the extent that no compensation was deposited or paid before 01.01.2014 in respect of land measuring 0.69 acres and for the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in **CWP No.17464 of 2007** titled as **Satnam Singh & Anr. vs. State of Haryana & Ors.**, the acquisition *qua* the subject land is declared to have lapsed.

(4) As regard to the dispute over remaining land claimed by the petitioners and in view of the specific objection raised, we direct the Land Acquisition Collector to re-verify the claim of the petitioners after affording an opportunity of personal hearing to them and/or their representative. He shall, on verification of the revenue record, sale deeds and/or any other documents, re-determine the total area of the acquired land of the petitioners. In case of acceptance of petitioners' claim, in that event, it is held that the acquisition *qua* the entire land shall be taken to have lapsed. The above-stated question regarding the additional land shall be determined within three months from the date of receipt of certified copy of this order.

(5) 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.

(6) Ordered accordingly.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge