

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12472 of 2016

DATE OF DECISION: JUNE 20, 2016

BRIG.(RETD.) SASSI INDER SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: DR. SURYA PARKASH, ADVOCATE FOR THE PETITIONER.

M. JEYAPPAUL, J.

1. Notice of motion.

2. On asking of the Court, Ms. Sudeepti Sharma, DAG, Punjab took notice for respondent No.1.

3. Heard both sides.

4. The writ petition is filed praying for a declaration that acquisition proceedings pertaining to the land of the petitioner detailed in para 2 of the petition by way of notification dated 21.6.1976 and 28.6.1979 and the award dated 15.12.1981 and the supplementary award dated 18.1.1982, be declared as nullity as the compensation was not deposited by respondent No.2 to the Land Acquisition Collector over a period of 20 years of the award and the possessions was never taken.

5. It is contended by the writ petitioners that the acquisition proceedings have lapsed under Section 24(2) of the Right to Fair

Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short '2013 Act') and in view of the judgements of the Hon'ble Supreme Court in *Pune Municipal Corporation vs. Harakchand Misirimal Solanki, (2014) 3 SCC 183 followed in Union of India vs. Shiv Raj, 2014(6) SCC 564, Bimla Devi vs. State of Haryana, 2014(6) SCC 583 and Bharat Kumar vs. State of Haryana, 2014(6) SCC 586.*

6. A perusal of Section 24(2) of the above 2013 Act reads as under:-

“(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land had not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.”

7. In CWP No.5794 of 2015, the Bench of this Court vide order dated 7.4.2015 gave liberty to the petitioner herein to submit a detailed representation to the Land Acquisition Collector, Ludhiana Improvement Trust, Ludhiana, who was directed to consider and decide the same within a reasonable time after issuing notice to the Ludhiana Improvement Trust,

Ludhiana (Annexure P-7). The operative portion of the order passed by the Land Acquisition Collector, Ludhiana Improvement Trust, Ludhiana, on the basis of the above direction issued by the Bench of this Court on 7.4.2015 reads as under:-

“1. The Compensation regarding this disputed land has not been received by the owners till now and the said amount is not lying the District Treasury, Ludhiana.

2. The possession of this land in dispute has not been taken over by the Improvement Trust so far.

According to above, it is recommended to initiate proceedings under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013.

It is requested tat the decision in this regard is to be taken at your level under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013.”

8. The grievance of the writ petitioner is that in spite of such an order passed by the Land Acquisition Collector, Ludhiana Improvement Trust, Ludhiana as early as on 29.3.2016 and sent to respondent No.1 for taking action under Section 24(2) of the above Act, no concrete step was taken by respondent No.1.

9. It is now well settled by the Hon'ble Supreme Court as well as by the various High Courts in our country that if the physical possession of

the land had not been taken or the compensation had not been paid, the land acquisition proceedings shall be deemed to have lapsed.

10. In view of the above facts and circumstances, respondent No.1 is directed to pass appropriate orders on the above recommendation made by respondent No.3 vide Annexure P-7 dated 29.3.2016 and also in the light of the judgements of the Hon'ble Supreme Court in *A.P. Housing Board vs. Mohd. Sadatullah and Ors. 2007(6) SCC 566, Pune Municipal Corporation vs. Harakchand Misirimal Solanki, (2014) 3 SCC 183 followed in Union of India vs. Shiv Raj, 2014(6) SCC 564, Bimla Devi vs. State of Haryana, 2014(6) SCC 583 and Bharat Kumar vs. State of Haryana, 2014(6) SCC 586 and Karnail Kaur and others vs. State of Punjab ad others, 2015(3) SCC 206*, within 2 months from the date of this order.

11. The writ petition in the aforesaid terms stands disposed of.

**(M. JEYAPPAUL)
JUDGE**

June 20, 2016
Gulati

**(HARINDER SINGH SIDHU)
JUDGE**