

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 12721 of 2016
DATE OF DECISION :- June 29, 2016**

M/s Wellspun Polybuttons Pvt. Ltd.

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present:- Mr. Atul Nanda, Sr. Advocate
with Mr. Vaibhav Narang, Advocate for the petitioner.

Mr. Gagan Deep Singh Wasu, Additional Advocate General,
Haryana.

M.JEYAPPAUL, J.

1. The petitioner is the owner in possession of land measuring 19 Biswas and 4 Biswansis, comprised in Khasra No. 1565/956/2/2 located in Village Khandsa, Tehsil, District Gurgaon. The aforesaid land became subject matter of land acquisition proceedings when a Notification under Section 4 of the Land Acquisition Act, 1894 was issued by the Respondent State on 15.11.2002 which culminated in an Award dated 14.3.2006.

2. The petitioner contends that it has been making representation to the concerned authorities with regard to the release of the said land throughout the proceedings and has approached this Court by CWP No.

Director of Industries, by his letter dated 04.10.2007 informed the petitioner that its land was to be released and requested that the said Writ Petition be withdrawn.

3. The petitioner contends that in spite of the aforesaid and its latest representation dated 07.09.2015, no action has been forthcoming. It is contended that the possession of the said land has remained with the petitioner and no compensation has ever been paid to it. Therefore, it is contended that the acquisition proceedings with respect to the petitioner's land have lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 ("New Act").

4. Section 24 of the 2013 Act, being relevant is reproduced hereunder, for the kind convenience and ready reference of this Hon'ble Court :-

“Section 24 – Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases – (1)
Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 -

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply.

or

(b) where an award under said Section 11 has been made, then such proceedings shall continue under

the provisions of the said Land Acquisition Act, as
if the said Act has not been repealed.

(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 has 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; Provided that where an award has
been made and compensation in respect of a majority of land
holdings has not been deposited in the account of the
beneficiaries, then, all beneficiaries specified in the notification
for acquisition under Section 4 of the said Land Acquisition
Act, shall be entitled to compensation in accordance with the
provisions of this Act”.

5. The Hon'ble Supreme Court in the case of Pune Municipal
Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors., reported
as 2014 (3) SCC 183, interpreted Section 24(2) of the New Act as under :

“20. From the above, it is clear that the award pertaining to
the subject land has been made by the Special Land
Acquisition Officer more than five years prior to the
commencement of the 2013 Act. It is also admitted position
that compensation so awarded has neither been paid to the

land owners/persons interested nor deposited in the Court. The deposit of compensation amount in the government treasury is of no avail and cannot be held to be equivalent to compensation paid to the land owners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.

21.Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied.....”.

6. The aforesaid judgment has been reiterated by the Hon'ble Supreme Court in Bharat Kumar v. State of Haryana and Anr., reported as (2014) 6 SCC 586 and in Bimla Devi and Ors. Vs. State of Haryana and Ors., reported as (2014) 6 SCC 583 and more recently in its judgment dated 28.4.2016 in Civil Appeal No. 4544 of 2016 titled as D.D.A. v. Reena Suri and Ors.

7. In view of the law settled by the Hon'ble Supreme Court, the only question that arises in this petition is whether either of the conditions under Section 24(2) of the New Act are satisfied in the Petitioner's case.

8. We had on the last date of hearing given time to the Addl. A.G. to take instructions on the matter. On a reading of the letter of the Director of Industries, dated 14.08.2004, it is found that the petitioner is running an

release. It is further found that neither the possession of the land has been taken from the petitioner nor has the compensation ever been paid to it. This is in spite of the Award having been passed as early as 2006. Given the same the case of the petitioner satisfies both the tests of Section 24(2) as laid down by the Hon'ble Supreme Court.

9. In that view of the matter, the Writ Petition is allowed in terms of prayers (ii) to (iv) and the acquisition proceedings with respect to the petitioner's land located in village Khandsa, Gurgaon, is deemed to have lapsed in terms of Section 24(2) of the New Act.

(M. JEYAPPAUL)
JUDGE

(A.B. CHAUDHARI)
JUDGE

June 29, 2016
p.singh