

CM No.9532-2016 in/and
CWP-14911-2014 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM No.9532-2016 in/and
CWP-14911-2014 (O&M)
Date of Decision: December 20, 2016

Sumitra Yadav

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

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

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Sandeep Sharma, Advocate
for the petitioner.

Mr.R.D.Sharma, DAG, Haryana.
Mr.Ankit Gupta, Advocate for
Mr.Deepak Balyan, Advocate for HUDA.

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SURYA KANT, J.

CM-9532-2016

For the reasons mentioned in the application, the same is
allowed. Main case is taken up today for hearing.

CM stands disposed of.

CWP-14911-2014

The petitioner seeks a declaration that the acquisition of her
land measuring 17K, fully described in para 3 of the writ petition, situated
in the revenue estate of village Padianwas, Tehsil and District Rewari, which
was acquired vide Award dated 20.1.2006 is deemed to have lapsed under

Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act') as neither the petitioner was paid the compensation nor in the absence of her consent, the said amount was deposited with the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act'). Physical possession is also claimed to be with the petitioner as a residential house and some shops etc. have been constructed at the acquired site.

[2] The Land Acquisition Collector, Urban Estate, Gurgaon-respondent No.2 in his written statement dated 15.05.2015 has admitted that the compensation of acquired land was not paid to the petitioner because she did not provide her consent in writing to receive the compensation amount and that the undisbursed amount "*is lying deposited in the account of the LAC.....*" In other words, the compensation amount has not been deposited with the Reference Court as per Section 31(2) of the 1894 Act. Regarding possession, the Land Acquisition Collector claims that it was handed over to the representative of HUDA vide Rapat No.345 dated 20.01.2006. It appears to be a case of delivery of symbolic possession only as there is no proof on record that the petitioner was ever dispossessed or the physical possession of the site was taken by the authorities. The petitioner appears to have residential house at the site, hence it cannot be accepted that she was physically dispossessed. Both the ingredients of Section 24(2) of the 2013 Act are, thus, stand proved.

[3] For the reasons afore-stated read with the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in CWP

No.17464 of 2007 titled as Satnam Singh and anr. vs. State of Haryana and ors., the instant writ petition is allowed and the impugned acquisition is declared to have lapsed on the grounds as contained in Section 24(2) of the 2013 Act.

[4] 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 petitioner 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 directed 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.

[5] Ordered accordingly.

(SURYA KANT)
JUDGE

December 20, 2016

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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No