

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14867 of 2016 (O&M)

Date of Decision: 27.10.2016

Sunita Sharma ... Petitioner

VS.

State of Haryana & Anr. ... Respondents

CWP No.14392 of 2016 (O&M)

Sanjay Gupta ... Petitioner

VS.

State of Haryana & Ors. ... Respondents

CWP No.13486 of 2016 (O&M)

Joginder Singh & Ors. ... Petitioners

VS.

State of Haryana & Ors. ... Respondents

CWP No.12597 of 2016 (O&M)

Ram Kumar & Ors. ... Petitioners

VS.

State of Haryana & Ors. ... Respondents

CWP No.12601 of 2016 (O&M)

Rati Ram ... Petitioner

VS.

State of Haryana & Ors. ... Respondents

CWP No.820 of 2015 (O&M)

Parmod Antil & Anr. ... Petitioners

VS.

State of Haryana & Ors. ... Respondents

CWP No.2115 of 2014 (O&M)

Pritam Kumar Goel & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

CWP No.2344 of 2014 (O&M)

Dalmia Bharat Sugar and Industries Ltd.

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CWP No.26213 of 2014 (O&M)

Hira Singh

... Petitioner

VS.

State of Haryana & 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. Shailender Jain, Senior Advocate with
Ms. Rajni Paul, Advocate;

Mr. RS Rai, Senior Advocate with
Mr.Harsh Bungar, Advocate;

Mr. BS Rathee, Advocate;

Mr. Vishal Sharma, Advocate;

Mr. Chetan Mittal, Senior Advocate with
Mr. Varun Issar, Advocate;

Mr. VK Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate;

Mr. ML Sharma, Advocate;

Mr. Vikram Punia, Advocate;

Mr. Bhoop Singh, Advocate;

Mr. Sanjay Vashisht; Advocate;

Mr. Mahavir Sandhu, Advocate;

Mr. Sourabh Goel, Advocate;

Mr. PK Mutneja, Advocate;
Mr. Sushil Jain, Advocate;
Mr. Rajiv Kataria, Advocate;
Mr. Keshav Pratap Singh, Advocate;
Mr. Vikram Singh, Advocate;
Mr. Deepender Singh, Advocate;
Mr. Rahul Srivastava, Advocate;
Mr. Ajay Jain, Advocate;
Mr. Ashwani Bura, Advocate;
Mr. Rajesh Hooda, Advocate;
Mr. Sandeep Sharma, Advocate;
Mr. Vikas Lochab, Advocate;
Mr. Suryakant Gautam, Advocate;
Mr. Chanderhas Yadav, Advocate;
Mr. Mani Ram Verma, Advocate;
Mr. SP Khatri, Advocate;

Mr. Ravi Dutt Sharma, DAG Haryana
Ms. Palika Monga, DAG Haryana

Mr. Lokesh Sinhal, Advocate for HSIIDC

SURYA KANT, J.

(1) This common order shall dispose of the above-captioned writ petitions as in all the cases, the question which arises for consideration is whether the acquisition of land of the petitioners shall be deemed to have lapsed on one or the other ground prescribed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013?

(2) Brief facts of each case are extracted for ready reference:-

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(3) The land of the petitioner fully described in para-8 of the writ petition, situated in the revenue estate of village Sultanpur, Tehsil and

District Sonapat was acquired vide Award dated 14.10.2004. She claims that the said acquisition is deemed to have lapsed in view of Section 24(2) of the 2013 Act on the ground that the petitioner still continues to be in physical possession of the acquired land and she has neither been paid the compensation amount nor it was deposited with the Reference/Civil Court in accordance with Section 31(2) of the 1894 Act.

(4) The Land Acquisition Collector in his status report dated 18.10.2016 has admitted the fact that despite offering compensation as per the new Act by way of a revised award dated 28.10.2015 only one of the co-sharer i.e. Bhim Singh has lifted the compensation. As regard to the petitioner, it is impliedly acknowledged that she has not received the compensation amount. Similarly, the possession delivered to HUDA on the date of announcement of the award was symbolic in nature.

CWP No.14392 of 2016

(5) The petitioner seeks a declaration to the effect that acquisition of his land fully described in para-2 of the writ petition situated in Village Sultanpur, Tehsil and District Sonapat, was acquired vide Award dated 01.05.1987 shall be deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is urged that the possession of the acquired land is still with the petitioner as his dispossession was stayed by this Court on 03.06.1987 in CWP No.3327 of 1987. It is further averred that no compensation has been paid to the petitioner or deposited in accordance with Section 31(2) of the 1894 Act.

(6) In the status report filed by the Land Acquisition Collector, petitioner's plea regarding possession has been controverted as the

possession is claimed to have been handed over to Estate Officer, HUDA on the day when the award was passed and an entry to this effect was made in Rapat Rojnamcha No.501 dated 01.05.1987. It is further averred that the compensation amount was tendered by the Land Acquisition Collector but the same has not been lifted by the petitioner.

CWP No.13486 of 2016

(7) The petitioners through their predecessors, is stated to be owners of the land referred to in para-2 of the writ petition situated in village Haripur now in the revenue area of Tehsil and District Panchkula. The said land was acquired vide Award dated 09.06.1987. The first petitioner along with some other affected owners approached this Court through CWP No.10424 of 1988 which was dismissed on 27.02.1996. It is averred that despite dismissal of the writ petition physical possession of the land throughout remained with the petitioners and that *“even the compensation amount with regard to the land in dispute has not been deposited in the Court...”*.

(8) No reply has been filed by the respondents to counter the aforesaid averments, which are deemed to have been admitted. During the course of hearing also, the above-stated factual pleas were not controverted.

**CWP No.12597 of 2016 and
CWP No.12601 of 2016**

(9) The petitioners in both the cases are residents of Bhiwani. Their lands, situated in the revenue estates of village Bhiwani Lohar fully described in para-2 of their respective writ petitions, were acquired vide Award No.7 dated 10.11.1987. The petitioners unsuccessfully challenged the acquisition before this Court as their writ petitions were dismissed on

SLPs on 19.08.2011 with liberty to approach the State Government for the release of their land. In this manner, they are said to have retained physical possession of the land till the new Act came into force w.e.f. 01.01.2014. In para 15 of the writ petition it is further averred that the petitioners have not received the amount of compensation nor it has been deposited in their account or with the reference court.

(10) The Land Acquisition Collector has filed the status report-cum-affidavit dated 23/24.08.2016 and in para 4 thereof, he has acknowledged the fact that the petitioners have not received the compensation amount. It is nowhere averred that the said compensation amount was deposited with the competent court as per Section 31(2) of the 1894 Act.

CWP No.820 of 2015

(11) The petitioners' land situated within the revenue estate of village Raipur, Tehsil and District Sonapat and fully described in para-3 of the writ petition was acquired vide Award dated 14.01.2006. In para-13 of the writ petition, it is averred that compensation amount has not been paid to them. In para-15, it is further averred that they are in continuous physical possession of the acquired land.

(12) No reply has been filed by the respondents to counter the aforesaid averments, which are deemed to have been admitted. During the course of hearing also, the above-stated factual pleas were not controverted.

CWP No.2115 of 2014

(13) The petitioners are residents of Jagadhari, District Yamuna Nagar. Their land fully described in para 2 of the writ petition situated in the revenue estate of Village Tejli, Tehsil Jagadhari, District Yamuna Nagar was acquired vide Award No.20 dated 21.03.2007. As per the averments

made in para 7 of the writ petition, the petitioners were neither paid the compensation amount nor it was deposited with the Civil or Reference Court as per Section 31(2) of the 1894 Act. Further, in para 9 of the writ petition it is specifically averred that the petitioners continued to be in uninterrupted physical possession of the acquired land.

(14) The Land Acquisition Collector has filed the written statement dated 26.03.2015 and in para 7 of reply on merits, it is candidly acknowledged that the petitioners did not come forward to claim the amount of compensation and that *“the undisputed amount, is lying deposited in the common account of LAC...”*.

CWP No.2344 of 2014

(15) The petitioner-company owned the land situated in the revenue estate of village Jharsetly, Tehsil Ballabgarh, District Faridabad fully described in para-2 of the writ petition. The above-stated land was sought to be acquired and no sooner notification under Section 6 of the 1894 Act was issued, the petitioner challenged the acquisition through CWP No.1116 of 1990 in which its dispossession was stayed. The Award was thereafter announced on 20.03.1991. The above-stated writ petition was dismissed on 31.10.2013.

(16) Meanwhile, the 2013 Act came into force w.e.f. 01.01.2014. It is averred that since the petitioner-company continued to retain possession of the acquired land and as per the averments made in para 16 of the writ petition, neither the compensation amount was paid nor deposited in the reference court as per Section 31(2) of the 2013 Act, the acquisition is claimed to have lapsed.

(17) The Land Acquisition Collector has in his status report-cum-affidavit dated 09.01.2015 admitted in para 3(B)(ii) that “the petitioner has not received the compensation of the said acquired land in dispute deliberately and intentionally which is pending in the office of the deponent”.

CWP No.26213 of 2014

(18) The petitioner is a resident of Village Piwra, Tehsil and District Rewari. He seeks a declaration to the effect that the acquisition of his land fully described in para 2 of the writ petition acquired vide Award dated 20.01.2006 shall be deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As per the averments made in para 8 & 9 of the writ petition the petitioner is in physical possession of the acquired land even without stay order which stood vacated on 01.11.2011 and that he has neither been paid compensation nor it was deposited in the Court as per Section 31(2) of the 1894 Act.

(19) No reply has been filed by the respondents to counter the aforesaid averments, which are deemed to have been admitted. During the course of hearing also, the above-stated factual pleas were not controverted.

ISSUES FOR DETERMINATION

(20) Having heard learned counsel for the parties at a considerable length and after going through the record, it emerges out that the solitary question which requires determination is whether the impugned acquisitions are liable to be declared to have lapsed on account of the existence of conditions contained in Section 24(2) of the 2013 Act?

(21) It is undeniable that compensation amount has not been paid or deposited with the Civil or Reference Court as per Section 31(2) of the 1894 Act. It may further be seen from the date of Awards in each case that the same were passed five years or more prior to the new Act came into force on 01.01.2014. It thus stands established that one of the statutory stipulation contained in Section 24(2) *re*: non-payment of compensation or its deposit for a period of five years or more from the date of passing of the award till the new Act came into force stands indisputably established in these cases. Equally correct will be to hold that the petitioners have in each case established that they continue to retain the physical possession of the acquired land/properties.

(22) The question of applicability of Section 24(2) of 2013 Act, in the event of one or the other above-stated admitted facts, has been elaborately dealt with vide separate order of even date in **Ghasitu Ram vs. State of Haryana & Ors. (CWP No.11445 of 2008)**.

(23) For the reasons assigned in the cited decision, these writ petitions are allowed and it is declared that acquisition of lands of the petitioners shall be deemed to have lapsed under Section 24(2) of the 2013 Act.

(24) 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.

(25) Ordered accordingly.

(Surya Kant)
Judge

27.10.2016
vishal shonkar

(Sudip Ahluwalia)
Judge