

CM-11855-2016 in/and
CWP-16698-2015 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-11855-2016 in/and
CWP-16698-2015 (O&M)
Date of Decision: December 20, 2016

Sunder Lal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

- | | | |
|----|---|---------|
| 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 petitioners.

Mr.RKS Brar, Addl.AG, Haryana.

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SURYA KANT, J.

CM-11855-2016

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

CM stands disposed of.

CWP-16698-2015

Land of the petitioner measuring 2 kanal, fully described in para
2 of the writ petition and situated in the revenue estate of village Tigra,
Tehsil and District Gurgaon was acquired vide Award dated 21.07.2003. In
the instant writ petition petitioner seeks a declaration that the above-stated
acquisition is deemed to have lapsed on the grounds, mandated in Section

24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act'), namely, that though he had received the compensation amount but physical possession of the site, where he has constructed a residential house and shops, is still with him.

[2] When this writ petition came up for hearing on September 10, 2015, this Court stayed the dispossession of petitioner subject to the condition that he shall deposit the compensation amount with interest @12% per annum without prejudice to the rights of any of the parties.

[3] The petitioner has in compliance to that order, deposited a sum of Rs.40 lacs with the Land Acquisition Collector, Urban Estate Department, Gurgaon vide 'Payee's Cheque' (Annexure P12).

[4] So far to his physical possession over the acquired land is concerned, the Land Acquisition Collector, Urban Estate, Gurgaon, in his written statement dated 21.10.2015 has admitted as follows:

“(iii) That as per the acquisition record the petitioner has constructed one room (15'x12'), one room (18'x12') with boundary wall in khasra no.16//23/1/2(2-0).”

[5] Though in the earlier part of the written statement it is averred that possession of the site was handed over to HUDA at the time of announcement of the Award but there is no proof that the petitioner was physically dispossessed or that physical possession of the site was actually handed over to HUDA. It was a case of delivery of symbolic possession only.

[6] The fact that the petitioner continued to stay in the house or the

shops are still in his possession has not been controverted. In this view of the matter, we hold that the petitioner has satisfied one of the ingredients of Section 24(2) of the 2013 Act, namely, physical possession of the acquired site is with him for a period of more than five years from the date of Award till the 2013 Act came into force w.e.f. 01.01.2014.

[7] 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.

[8] 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.

[9] Ordered accordingly.

[10] However, the above-stated declaration shall be subject to further condition that the petitioner is liable to return the compensation amount alongwith interest, namely, from the date when actual compensation amount was paid to him till the expiry of one year at the rate of 9% per annum and from the completion of one year onwards till the date of refund, the petitioner shall be liable to pay interest @15% per annum (instead of 12% per annum). The above-stated rate of interest has been determined on the analogy of proviso to Section 34 of the Land Acquisition Act, 1894. Land Acquisition Collector, Urban Estate, Gurgaon is thus, directed to determine the total amount to be refunded by the petitioner within a period of one month from the date of receipt of a certified copy of this order and petitioner shall be liable to deposit such balance amount, if any, within two weeks thereafter.

**(SURYA KANT)
JUDGE**

December 20, 2016
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**(SUDIP AHLUWALIA)
JUDGE**

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

Yes/No
Yes/No