

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16550 of 2016
Date of Decision: 30.11.2016

Sudhir Shingla & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

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

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| 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. Ranjit Saini, Advocate for the petitioners

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

Mr. Deepak Sabharwal, Advocate for respondent No.6

SURYA KANT, J. (Oral)

(1) The petitioners have questioned the acquisition of their land fully described in the headnote of the writ petition itself, situated within the revenue estate of village Patti Taraf Insar, Panipat which was acquired vide award dated 07.05.1992. The case of the petitioner is that the impugned acquisition is deemed to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as they are in uninterrupted continuous physical possession of the acquired land. It is further averred that the petitioners have neither been paid the compensation amount nor it has been deposited in the Reference Court in accordance with Section 31 of the Land Acquisition Act, 1894.

(2) It is explained that the petitioners had earlier approached this

stayed vide interim order passed on 05.10.2010. The stay order has been continuously operating and by virtue of that order the possession is still with the petitioners.

(3) The Land Acquisition Collector, Urban Estate, Rohtak has filed the status report dated 21.11.2016 and in para 4 thereof, it is admitted that the petitioners have not received the compensation amount. It is nowhere averred that the compensation was ever deposited with the Reference Court as per Section 31 of the Land Acquisition Act, 1894.

(4) As regard to possession the plea taken is that the possession was delivered to HUDA on the date of passing of the award. Obviously, it was a case of handing over of 'symbolic possession' as the physical possession of the acquired property is still with the petitioners where they have raised massive construction and their industrial unit is also functional. There is no documentary proof attached by the Land Acquisition Collector to prove that the physical possession of the acquired site was ever delivered to HUDA.

(5) That being the state of affairs, there can be no escape but to hold that both the ingredients of Section 24(2) of the 2013 Act are fully satisfied. In this view of the matter and for the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in **CWP No.17464 of 2007** titled as **Satnam Singh & Anr. vs. State of Haryana & Ors.**, the instant writ petition is allowed and the impugned acquisition is declared to have lapsed on both grounds as contained in Section 24(2) of 2013 Act.

(6) 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.

(7) Ordered accordingly.

(Surya Kant)
Judge

30.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge