

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16757 of 2016
Date of Decision: 30.11.2016

Manoj Kumar & Anr.

... 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. Sandeep Sharma, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioners have challenged the acquisition of their land measuring 3000 sq.yards fully described in para 2 of the writ petition and situated within the revenue estate of village Kanhai, District Gurgaon. According to them, the subject-acquisition is deemed to have lapsed on both the grounds contained in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, namely, possession of the acquired property is still with them and compensation amount has been neither paid to them nor deposited in the Court as per the requirement of Section 31(2) of the Land Acquisition Act, 1894.

(2) The Land Acquisition Collector has status report dated 25.10.2016 wherein it has been admitted that the compensation amount has not been paid and is still lying deposited the account of the Land Acquisition

with the Reference Court under Section 31(2) of the 1894 Act. It is further explained that the possession of the land has been handed over to HUDA.

(3) As regard to possession, the petitioners have placed on record the photographs to show that they have constructed residential house at the site and the same is still in their occupation. The plea taken by the respondents is that the possession was handed over 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. 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.

(4) That being the state of affairs, there can be no escape but to hold that 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.

(5) 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.

(6) Ordered accordingly.

(Surya Kant)
Judge

30.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge