

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16794 of 2016
Date of Decision: 30.11.2016

Swatanter Singh Yadav

... 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. Sandeep Sharma, Advocate for the petitioner

Ms. Palika Monga, DAG Haryana

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioner has questioned the acquisition of his plot/property measuring 200 sq.yards comprising khasra No.20//4 situated within the revenue estate of village Samaspur, District Gurgaon. The above-stated plot was acquired vide award dated 13.05.2000.

(2) The petitioner though has received the compensation amount (including the enhanced one) but contends that the 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 the physical possession of acquired property where he has constructed a house is still with him. To substantiate his claim, the petitioner has placed on record revenue record, electricity bill etc.

(3) The Land Acquisition Collector has filed status report dated 15.11.2016 in which details regarding payment of compensation to the

physical possession was ever handed over to HUDA. No document regarding delivery of physical possession to the beneficiary department has been placed on record.

(4) As a matter of fact, the Estate Officer-II, HUDA has issued a notice dated 15.06.2016 (P8) claiming that the petitioner is in unauthorized occupation of the HUDA property. It clearly establishes that the possession of the petitioner at the site is undisputed.

(5) Keeping in view the fact that the petitioner is in physical possession of the site for a period of more than five years from the date of award i.e. 13.05.2000 and before the new Act came into force w.e.f. 01.01.2014, he has satisfied one of the mandatory conditions contained in Section 24(2) of the 2013 Act.

(6) 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.

(7) However, since the petitioner has received the compensation amount (including the enhanced one), he is directed to refund the same along with interest at the rate admissible to a landowner under the 1894 Act. The amount of compensation along with interest shall be determined by the Land Acquisition Collector whereupon the petitioner shall deposit the same within one month.

(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 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.

(9) Ordered accordingly.

(Surya Kant)
Judge

30.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge