

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17053 of 2016
Date of Decision: 30.11.2016

Davander Kumar ... Petitioner

VS.

State of Haryana & Ors. ... Respondents

CWP No.17020 of 2016

Mahinder Singh @ Mohinder Singh & 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. Navmohit Singh, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) This order shall dispose of the above-captioned writ petitions as both the cases pertain to same acquisition process. The point in issue for consideration is whether the subject 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? The facts are being extracted from CWP No.17053 of 2016.

(2) The petitioner is resident of village Tejli, Tehsil Jagadhari, District Yamuna Nagar. The challenge is to the acquisition of his land/plot fully described in para 2 of the writ petition. The acquisition was made vide award dated 27.04.2004. According to the petitioner, the acquisition has

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, namely, the possession of the acquired property is with him and compensation amount has been neither paid to him nor deposited in the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894.

(3) The Land Acquisition Collector, Urban Estate, Panchkula has filed his written statement dated 10.11.2016 and in para 7 thereof, it is averred that the compensation amount is still lying deposited in the account of the Land Acquisition Collector. Obviously, the same has not been deposited in the Reference Court as is required under Section 31(2) of the 1894 Act.

(4) As regard to possession the plea taken is that the possession was delivered to HUDA on the date of award i.e. 27.04.2004. No documentary proof etc. has been attached to prove that the physical possession of the acquired land was ever delivered to HUDA. Obviously, it is a case of symbolic possession only.

(5) That being the state of affairs, both the ingredients of Section 24(2) of the 2013 Act are made out.

(6) 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) 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.

(8) Ordered accordingly.

(Surya Kant)
Judge

30.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge