

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17063 of 2016
Date of Decision: 23.08.2016

Asraf Ali & Anr.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

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

- | | |
|--|----------|
| 1. Whether speaking/reasoned? | Yes / No |
| 2. Whether reportable? | Yes / 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. GS Punia, Senior Advocate with
Mr. PS Punia, Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) The petitioners have laid challenge to the notifications dated 05.09.2013 and 02.09.2014 issued under Section 4&6 of the Land Acquisition Act, 1894 (in short, 'the 1894 Act') which has been repealed w.e.f. 01.01.2014 and stands replaced by the new Act, namely, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The plea taken is that no notification under Section 6 of the 1894 Act could be issued after the new Act has come into force. Reliance is placed on a Division Bench decision to which one of us (Surya Kant, J) was a member in the case of **Bhajan Singh vs. State of Punjab & Anr., (2014) 4 PLR 406.** It is further pointed out that the matter has been referred to a larger Bench where one of the questions to be determined is whether on publication of Section 4 notification under the old Act further steps could be taken to acquire the land under the old Act even after 01.01.2014?

(2) In our considered view, the above-stated issue does not arise for consideration in the case of petitioners. The acquired land is not owned by the petitioners as admittedly it vests in the Gram Panchayat. The documents on record reveal that the petitioners are in unauthorized possession of the land. If such land has been allotted to them and the petitioners are in authorized possession thereof, they are firstly required to obtain declaration of their allotment/title under Section 13 of the Punjab Village Common Land (Regulations) Act, 1961. It is only if they are held to be lawful owners of the acquired land that the above-stated plea can be taken or entertained.

(3) The writ petition is thus devoid of any merit and is accordingly dismissed.

(Surya Kant)
Judge

23.08.2016
vishal shonkar

(Sudip Ahluwalia)
Judge