

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17360 of 2016
Date of Decision: 30.11.2016

Shiri Ram & 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. Sandeep Sharma, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioners are residents of village Kanhai, District Gurgaon. Their residential houses and shops situated within the revenue estate of their village were acquired vide award dated 23.03.1993.

(2) The petitioners though have received the compensation amount 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 physical possession of the acquired property where they have raised house/structure continues to be with them. The petitioners have placed on record electricity bills, photographs and revenue record etc. to substantiate their plea of possession.

(3) The Land Acquisition Collector, Urban Estates, Gurgaon has filed status report dated 25.10.2016 in which though facts regarding payment

document attached to show that the possession was ever delivered to the beneficiary department.

(4) Keeping in view the fact that the petitioners are in physical possession of the site for a period of more than five years from the date of award i.e. 23.03.1993 and before the new Act came into force w.e.f. 01.01.2014, they have satisfied one of the mandatory conditions contained in Section 24(2) of the 2013 Act.

(5) 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 satisfied. In this view of the matter and for the detailed reasons assigned by this Court in the 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) However, since the petitioners have received the compensation amount, they are 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 to be refundable by the petitioners shall be determined by the Land Acquisition Collector whereupon they shall deposit the same within one month.

(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 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.

(8) Ordered accordingly.

(Surya Kant)
Judge

30.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge