

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19523 of 2014 (O&M)

Date of Decision: 09.12.2016

Avtar Singh (through LR's) & Ors.

... Petitioners

VS.

UT Chandigarh & 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. Rajiv Kataria, Advocate for the petitioners

Mr. Sanjeev Sharma, Senior Advocate with

Mr. Shekhar Verma, Advocate;

Mr. Vishal Sodhi, Advocate for UT Chandigarh

Ms. Deepali Puri, Advocate for MC Chandigarh

SURYA KANT, J. (Oral)

(1) There are four petitioners in this case, out of whom petitioner No.1 Avtar Singh has since died and is now represented by his legal heirs. While the first petitioner (since deceased) seeks a declaration that the acquisition of his land made vide Award dated 05.03.2003 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 other petitioners have joined him to claim similar relief in respect of the land described in para 3 of the writ petition on which they claim themselves to be lessees.

(2) As regard to the first petitioner, the respondents have admitted that neither the possession of land measuring 8 kanal 3 marla was taken nor compensation was paid to him before 01.01.2014. It has further been

admitted that the compensation has been deposited with the Reference Court on 16.07.2014 only i.e. much after 01.01.2014 when the new Act came into force. The first petitioner (since deceased) has thus satisfied both the ingredients of Section 24(2) of the 2013 Act.

(3) 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 *qua* petitioner No.1 (Avtar Singh) is allowed and the impugned acquisition is declared to have lapsed on both grounds as contained in Section 24(2) of 2013 Act.

(4) 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 petitioner No.1 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. Ordered accordingly.

(5) As regard to petitioners No.2 to 4, there is nothing on record to suggest that they were inducted as lessees. The land on which they claim to be lessees appears to have been acquired and compensation paid to the Dera to whom the land belongs. If the petitioners have any *inter-se* dispute with the previous owner of the land, petitioners no.2 to 4 are at liberty to seek apportionment of the compensation and/or any relief before an appropriate forum. The writ petition *qua* petitioners No.2 to 4 is dismissed with liberty afore-mentioned.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge