

**HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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**CWP No.18218 of 2016 (O&M)**

**Date of Decision: 12.12.2016**

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Mahesh Yadav & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT**

**HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

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|--------------------------------------------------------------------------|-----------------|
| 1. Whether speaking/reasoned?                                            | <b>Yes</b>      |
| 2. Whether reportable?                                                   | <b>No</b>       |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | <b>Yes / No</b> |
| 4. To be referred to the Reporters or not?                               | <b>Yes / No</b> |
| 5. Whether the judgment should be reported in the Digest?                | <b>Yes / No</b> |

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Present: Mr. Sandeep Sharma, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

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**SURYA KANT, J. (Oral)**

(1) The petitioners, who are residents of village Chhakarpur, District Gurgaon, are aggrieved by the acquisition of their land vide notifications dated 21.05.2002 and 27.01.2003 issued under Section 4&6 of the Land Acquisition Act, 1894 followed by the Award dated 24.01.2005. The acquisition was made for the development and utilization of the land for residential, commercial, institutional and open space area in Sector 26A, 27, 28, 42 & 43, Gurgaon. According to the petitioners, the acquisition proceedings are deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 since they have not received any compensation in lieu of their acquired land and that they are still in its physical possession. It is further averred that no notice was ever served by the respondents for vacation of the physical possession of the acquired property.

(2) The Land Acquisition Collector has filed status report dated 25.10.2016 contradicting the stand of the petitioners. In para 1(i), it is maintained that possession of the land in question was taken and handed over to the representative of HUDA on 02.05.2007 pursuant to dismissal of CWP No.10934 of 2003. As regard to compensation, it is averred that the compensation amount was 'tendered' but no one came forward either to receive the same or to prove their ownership. The undisbursed amount is lying deposited in the account of Land Acquisition Collector.

(3) Assuming that the stand taken by the Collector *re:* delivery of land to HUDA is correct (though it is a case of delivery of symbolic possession only), yet the fact remains that the compensation amount has not been 'paid' in accordance with Section 31(2) of the 1894 Act as explained by the Apex Court while interpreting Section 24(2) of the 2013 Act, to which a detailed reference has been made in the order dated 27.10.2016 rendered in **CWP No.17464 of 2007** titled as **Satnam Singh & Anr. Vs. State of Haryana & Ors.**

(4) In the light of the decision in **Satnam Singh & Anr.**, the petitioners cannot be said to have been paid the compensation amount, hence the subject acquisition is deemed to have lapsed for non-compliance of one of the mandatory conditions contained in Section 24(2) of the 2013 Act. Ordered accordingly.

(5) 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 incumbrances 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.

(6) Disposed of in above terms.

**(Surya Kant)**  
**Judge**

**28.11.2016**  
*vishal shonkar*

**(Sudip Ahluwalia)**  
**Judge**