

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18392 of 2016 (O&M)

Date of Decision: 12.12.2016

Chandrawal

... Petitioner

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. Sanjay Mittal, Advocate for the petitioner

Ms. Palika Monga, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioner, who is a resident of village Noorgardh, Tehsil Patodi, District Gurgaon, has laid challenge to the acquisition of her land (details whereof are mentioned in para-2 of the writ petition) vide notifications dated 27.01.2003 and 23.01.2004 issued under Section 4&6 of the Land Acquisition Act, 1894 as well as the Award dated 20.01.2006, for development and utilization of land as residential and commercial Sector 18, 19 & 20 part, Commercial Sector 17 part, Rewari. According to the petitioner, since no compensation amount in lieu of her acquired land has been paid and its physical possession is still with her, 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. It is further averred that the land in question comprises a residential house of A-class construction and the

petitioner is residing therein from a very long time i.e. much before publication of Section 4 notification.

(2) The Land Acquisition Collector has filed his status report dated 25.10.2016 and in para 1(ii) it is pointed out that the compensation amount is lying deposited in the account of LAC as the petitioner did not give her consent to receive the same. In other words, the compensation amount has not been deposited with the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894.

(3) It is further averred that the possession of the acquired land was handed over to the representative of HUDA on 20.01.2006. Obviously, it was symbolic possession only as according to the petitioner, she is still in occupation of the residential house as is evident from the photographs and revenue record appended by her to substantiate the claim. That apart, no documentary proof has been attached by the Land Acquisition Collector to prove that the physical possession of the acquired site was ever delivered to HUDA.

(4) 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.** has held that where compensation amount has not been 'paid' to the landowner(s) 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 notwithstanding the fact that 'symbolic' possession was handed over to the Government agency/beneficiary, such acquisition shall be deemed to have lapsed for non-compliance of one of the mandatory conditions contained in Section 24(2) of the 2013 Act.

(5) In the light of the observations made in **Satnam Singh & Anr.** (supra), which are equally applicable to the present case, the subject acquisition is deemed to have lapsed in view of Section 24(2) of the 2013 Act.

(6) 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.

(7) Ordered accordingly.

(Surya Kant)
Judge

12.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge