

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18414 of 2016
Date of Decision: 01.12.2016

Rajmal & 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. Amit Kumar Goyal, 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 Fazilpur, Tehsil & District Sonapat. They have questioned the acquisition of their land measuring 15 kanal 18 marla situated within the revenue estate of village Sultanpur, Tehsil & District Sonapat primarily on the ground 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. The plea taken is that though the petitioners have received the compensation amount but they are still in cultivating possession of the acquired land as may be seen from the revenue entries as well as photographs on record where crops have been sown.

(2) The Land Acquisition Collector, Urban Estates, Rohtak has filed status report dated 28.11.2016 explaining that the petitioners have already received compensation including enhanced one but regarding

Officer, HUDA on the date of passing of award. It was thus a case of taking the symbolic possession and not actual physical possession from the petitioners. The revenue entries placed on record substantiate the petitioners' claim that they are still in physical possession of the land.

(3) 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. 14.10.2004 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.

(4) 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 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 is allowed and the impugned acquisition is declared to have lapsed on both grounds as contained in Section 24(2) of 2013 Act.

(5) 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 shall be determined by the Land Acquisition Collector within one month and the petitioner shall be required to deposit the entire compensation amount along with interest in lumpsum within one month whereupon the acquisition shall be taken to have lapsed.

(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 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.

(7) Ordered accordingly.

(Surya Kant)
Judge

01.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge