

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18737 of 2016
Date of Decision: 14.12.2016

Shri Bhagwan & Ors. ... Petitioners

VS.

State of Haryana & Ors. ... Respondents

CWP No.18738 of 2016

Channo Devi @ Dhanno Devi & Ors. ... Petitioners

VS.

State of Haryana & 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: Dr. Deepak Jindal, Advocate for the petitioners

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) This order shall dispose of the above-captioned writ petitions as the point in issue is common. For brevity the facts are being extracted from CWP No.18737 of 2016.

(2) The land of the petitioners fully described in para 3 of the writ petition, situated within the revenue estate of village Garhi Bohar, Tehsil and District Rohtak was acquired vide award date 06.04.2005. The petitioners now seek a declaration that the above-stated acquisition is deemed to have lapsed on both the grounds mandated in Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, namely, that they are in physical possession of the

acquired property and the compensation amount has been neither paid nor deposited with the Reference Court under Section 31(2) of the Land Acquisition Act, 1894.

(3) The Land Acquisition Collector, Urban Estate, Rohtak has filed his status report dated 08.12.2016 wherein it is nowhere mentioned that the compensation amount was ever paid to the petitioners or on their refusal, it was deposited with the Reference Court as per Section 31(2) of the 1894 Act.

(4) Similarly, as regard to physical possession, it is claimed that the possession of the acquired land was taken on the date of passing of award. Obviously, it is case of symbolic possession only as there is no panchnama or report duly attested by independent witnesses regarding delivery of physical possession of the acquired land. That being so, the ingredients of Section 24(2) of the 2013 Act are fully satisfied.

(5) For the detailed reasons assigned 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 petitions are allowed and the impugned acquisitions are declared to have lapsed on both grounds as contained in Section 24(2) of 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 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

14.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge