

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

**CWP No.19762 of 2015
Date of decision: 03.05.2016**

Gurmit Kaur and others

.....Petitioners

vs.

The State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? **YES**
3. Whether the judgment should be reported in the Digest?

Present: Mr. Harkaran Singh, Advocate for Mr. B.S.Bhalla, Advocate,
for the petitioners.

Ms. Sudeepti Sharma, DAG, Punjab.

Mr. Ajay Pal Singh, Advocate for Mr. Anil Kumar Sharma,
Advocate for respondent Nos. 2 and 3.

Ajay Kumar Mittal,J.

1. The petitioner prays for issuance of a writ in the nature of mandamus directing the respondents not to disturb their peaceful possession on the land in dispute as the acquisition proceedings on the basis of notification dated 13.12.1995 published three times has already lapsed as per Section 24 of the

Rehabilitation and Resettlement Act, 2013 (in short, “the 2013 Act”) as period of more than five years has passed prior to the commencement of the 2013 Act and they have neither been paid compensation nor physical possession of the land has been taken by the respondents.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Respondent No.2 - Improvement Trust Moga vide its resolution No.91 dated 13.12.1995 proposed to acquire 5 acres of land situated in the revenue estate of Village Patti Sandhuan and Mogal Jit Singh, District Moga for the purpose of housing accommodation under section 28(2) read with sections 24 and 25 of the Punjab Town Improvement Act, 1922 (in short, “the 1922 Act”) which was published three times in the newspaper. The land where small residential plots owned by the petitioners out of which some were fully constructed while others were under construction, was acquired. According to the petitioners, as per provisions of section 24(2) of the 2013 Act, the acquisition proceedings are deemed to have lapsed as neither they have been paid any Compensation nor possession has been taken from them. Hence the instant writ petition by the petitioners.

3. A written statement was filed on behalf of respondent No.3 wherein it has been inter alia stated that the petitioners were not the owners of the land as per Jamabandis for the years 1988-89, 1993-94 and 1998-99 and in the column of ownership, the Central government has been shown to be the owner of the land.

Improvement Trust from taking forcible possession which was dismissed on 3.10.2009. Even the appeal filed by the petitioners against the order dated 3.10.2009 was also dismissed by the Sessions Court, Moga on 22.12.2010. Further, the suit for declaration that the petitioners were owners in possession of the residential house was also dismissed vide judgment dated 15.7.2015 passed by the trial court. It has been further stated that majority of the land owners had been paid compensation and only few land owners had not been paid compensation due to dispute with regard to ownership of the land amongst the co-owners. On these premises, prayer for dismissal of the petition has been made.

4. After hearing learned counsel for the parties and perusing the averments made in the writ petition and the written statement, we find that the petitioner has made prayer claiming benefit of Section 24(2) of the 2013 Act in respect of acquisition proceedings under the 1922 Act. It has been authoritatively pronounced by three Judges Bench of the Supreme Court in ***Gurcharan Singh and others vs. State of Punjab and others***, SLP(C) Nos.8565-8567 of 2011 vide order dated 4.7.2014 that the benefit of provisions of Section 24(2) of the 2013 Act is not available to the landowner in respect of acquisition under the 1922 Act. It has been laid down as under:-

“A close reading of Section 24 makes it clear that land acquisition proceedings under Land Acquisition Act, 1894 (for short, 'the 1894 Act') are deemed to have lapsed in certain cases which are indicated in the provision. Since the acquisition of the subject land has taken place under the 1922 Act and not under the 1894 Act, Section 24 has no application

at all. The argument concerning Section 24 of the 2013 Act and lapsing of the acquisition proceedings has no merit and is overruled.”

5. In view of the law enunciated by the Apex Court in ***Gurcharan Singh***'s case (supra), we do not find any ground to interference in writ jurisdiction under Articles 226/227 of the Constitution. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 03, 2016
'gs'

(Raj Rahul Garg)
Judge