

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-9954-55-CWP-2016 in/and

CWP No.20525 of 2014

Date of Decision: 12.12.2016

Mahinder Kumar Singla & Ors.

... Petitioners

VS.

State of Haryana & Anr.

... 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. Ashok Kaushik, Advocate for the petitioners

Ms. Palika Monga, DAG Haryana

Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioners have challenged the acquisition of their land measuring 1 bigha 9 biswa i.e. 1956 sq.yards fully described in para 2 of the writ petition situated within the revenue estate of Village Nizampur, Tehsil & District Panipat which was acquired vide award dated 28.02.1996. They have laid challenge to the subject-acquisition on the ground that it 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, namely, they are still in possession of the acquired property and compensation amount has not been paid to them or deposited in the Court in terms of Section 31(2) of the Land Acquisition Act, 1894.

(2) The Land Acquisition Collector, Urban Estate, Rohtak has filed status report and in para 4 thereof, it is admitted that the petitioners have not lifted the compensation amount which is still lying deposited in a separate

account maintained by the Land Acquisition Collector. In other words, the compensation amount was never deposited with the Reference Court under Section 31(2) of the 1894 Act.

(3) The physical possession of the site also appears to be with the petitioners. The plea taken by the respondents is that the possession was handed over to HUDA on the date of passing of the award. Obviously, it was handing over of symbolic possession only. There is no documentary proof attached by the Land Acquisition Collector to prove that the physical possession of the acquired site was ever delivered to HUDA.

(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 fully 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) 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.

(6) Ordered accordingly.

(Surya Kant)
Judge

12.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge