

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19574-2016
Date of Decision: December 14, 2016

JMD Industries through its partner Basant Kumar
.....Petitioner(s)
Versus

The State of Haryana and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Rajbir Sehrawat, Advocate
for the petitioner.

Mr.R.D.Sharma, DAG, Haryana.
Mr.Deepak Sabharwal, Advocate
for HSIIDC.
.....

SURYA KANT, J.

The petitioner has questioned the acquisition of its land measuring 8K-17M, fully described in para 3 of the writ petition, situated in the revenue estate of village Kundli, Tehsil and District Sonipat. The above-stated land was acquired vide Award dated 18.11.1998. The petitioner has now challenged the acquisition on the ground that the same shall be deemed to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, `the 2013 Act').

[2] The Land Acquisition Collector, Sonipat has filed his status report dated 13.12.2016 according to which possession of the land was handed over to the beneficiary department, i.e. HSIIDC. As regard to the compensation, it is candidly admitted in para 4 of the affidavit that the said amount has been deposited with the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894 (for

brevity, 'the 1894 Act') on 07.01.2015.

[3] Separate written statement has been filed by the Chief Town Planner, Department of Town and Courty Planning, Haryana, also, has nowhere averred that the compensation amount was received by the petitioner or for want of its consent, such amount was deposited with the Reference Court as per Section 31(2) of the 1894 Act before 01.01.2014 i.e. when the 2013 Act came into force.

[4] Learned counsel for HSIIDC vehemently contends that after taking physical possession of the land, the site has been developed and road has been constructed. However, in view of fact that compensation amount was not paid to the petitioner or deposited with the Reference Court for a period of five years from the date of Award till the 2013 Act came into force on 01.01.2014, we are of the considered view that the impugned acquisition is deemed to have lapsed. Subsequent deposit of the compensation amount is inconsequential.

[5] For the reasons afore-stated read with the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in **CWP No.17464 of 2007** titled as **Satnam Singh and anr. vs. State of Haryana and ors.**, the instant writ petition is allowed and the impugned acquisition is declared to have lapsed on the grounds as contained in 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 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 directed 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

December 14, 2016
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |