

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19996-2016

Date of Decision: December 14, 2016

Kamlesh Kumari and others

.....Petitioners

Versus

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.Sandeep Panwar, Advocate
for the petitioners.

Mr.R.D.Sharma, DAG, Haryana.

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SURYA KANT, J.

The petitioners have questioned the acquisition of their land measuring 4K-1M, fully described in para 2 of the writ petition, situated in the revenue estate of village Patti Kaisth Seth, Tehsil and District Kaithal. The above-stated land was acquired vide Award dated 22.02.1993. The petitioners have now challenged the acquisition on the ground that the same 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 (for brevity, 'the 2013 Act').

[2] The Land Acquisition Collector, Urban Estate, Panchkula, has filed his status report dated 14.12.2016 in which it is admitted that the petitioners did not give consent to receive the compensation and thereafter no amount was deposited with the Reference Court under Section 31(2) of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act'). In fact more than 57% compensation is stated to be pending for disbursement to different land owners. Possession of the land also appears to be with the petitioners as per the revenue record.

[3] In this manner, both the ingredients of Section 24(2) of the 2013 Act are satisfied.

[4] 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 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.

[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 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.

[6] Ordered accordingly.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

December 14, 2016

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1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No