

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22393 of 2014 (O&M)

Date of Decision: 09.12.2016

Amit Bakshi & Ors.

... Petitioners

VS.

UT of Chandigarh & Ors.

... Respondents

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

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Pratap Atma Ram, Advocate
for petitioners No.1,2&5
Mr. NS Boparai, Advocate for petitioners No.3,4&6

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Shekhar Verma, Advocate;
Mr. Vishal Sodhi, Advocate for UT Chandigarh

Ms. Deepali Puri, Advocate for MC Chandigarh

SURYA KANT, J. (Oral)

(1) The petitioners have laid challenge to the acquisition of their land/properties situated within the revenue estate of Village Manimajra, UT Chandigarh carried out vide award dated 29.03.2004 on the ground that the said acquisition 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.

(2) The question which arises for determination is whether the petitioners were 'paid' and/or 'offered' compensation in accordance with Section 31 of the Land Acquisition Act, 1894?

(3) It may be noticed at the outset that as per the chart furnished by the Chandigarh Administration, the possession of the acquired land/properties was admittedly taken on 06.07.2005. Hence, the

petitioners cannot invoke Section 24(2) of 2013 Act on the plea of retention of possession for a period of five years or more.

(4) So far as the non-payment of compensation is concerned, the respondents have taken a categorical stand that the total amount of compensation i.e. ₹ 3,51,45,902/- was deposited by them under Section 31 of the 1894 Act with the Reference Court on 10.03.2006. The petitioners on the other hand claim that there is non-compliance of sub-Section (1) of Section 31 of the 1894 Act as the compensation amount was not tendered to them and they never refused to receive the same. Reliance is placed on the Apex Court decision in **Pune Municipal Corporation & Anr. Vs. Harakchand Misiri Lal Solanki & Ors. (2014) 3 SCC 183.**

(5) Having heard learned counsel for the petitioners, we do not find any merit in this petition for more than one reason. Firstly, the compensation amount admittedly stood deposited in the Court way back on 10.03.2006. The factum of deposit of compensation amount in Court is a conclusive proof of the fact that the petitioners refused to receive the same and thereafter only the procedure under Section 31(2) was resorted to. The expression 'paid' as interpreted and construed by the Hon'ble Supreme Court in the cited decision means that the compensation amount has gone out of the hands of the State or its agencies and was paid either to the expropriated owner(s) or is/are lying with the Court from where such owner(s) is/are at liberty to withdraw the same as per his will and choice. Such a recourse became available to the petitioners well before the new Act came into force w.e.f. 01.01.2014. No case to declare the

acquisition to have lapsed under Section 24(2) of the 2013 Act is thus made out.

(6) At this stage, Ld. counsel for the petitioners urges that the acquisition was carried out under the orders of the then Advisor to the Administrator, UT Chandigarh though the 'Competent Authority' who could exercise the powers entrusted by the President of India under Article 239(1) of the Constitution was the Administrator alone and not an inferior authority, namely, his Advisor.

(7) It is lastly contended that the Chandigarh Administration has already constructed roads and to the extent that the acquired land has rightly been utilized for the 'public purpose', the petitioners have no objection *qua* the said utilization of acquired land. However, if the left out unutilized land is released in their favour, it would cause no serious prejudice to the Administration.

(8) Mr. Sanjeev Sharma, learned senior counsel for the Chandigarh Administration *albeit* informs that 28 allotments have already been made out of that acquired land and 123 acres of land has been allotted to the Chandigarh Housing Board. The Chandigarh Administration thus does not intend to release the land which is yet to be utilized. In view of the specific stand taken by the Administration, no direction for the release of the left out land can be issued.

(9) So far as the challenge to the acquisition on merits at this belated stage is concerned, we find that for the detailed reasons assigned in the order dated 29.11.2016 passed in **Vimla Devi & Ors. vs. UT Chandigarh & Ors. (CWP No.22803 of 2015)**, the instant writ petition

cannot be entertained on merits and is liable to be dismissed on account of inordinate delay and laches. Ordered accordingly.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge

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