

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

**CWP No.23907 of 2015
Date of decision: 24.2.2016**

Surjit Singh and another

.....Petitioners

vs.

State of Punjab and another

.....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. Manish Dadwal, Advocate for the petitioners.

Mr. Jagmohan Bansal, Addl.A.G.Punjab.

Ajay Kumar Mittal,J.

1. The petitioners pray for quashing the notifications under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") 29.1.2009 and 25.5.2009, Annexures P.3 and P.4 respectively as the same have elapsed in view of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act") as the award dated 24.2.2010 has not been given in respect of Village Terkiana, Hadbast No.204, Tehsil Dasuya, District Hoshiarpur and possession has not been taken from the petitioners.

2. A few facts relevant for the decision of the controversy involved as narrated in the appeal may be noticed. The petitioners were

owners of land situated in Village Terkiana, Hadbast No.204, Tehsil Dasuya, District Hoshiarpur. The land was situated in various Khasra Nos. which included khasra Nos. 46, 3215/47, 3218/52, 53, 54, measuring 24 kanals 8 marlas. With regard to Khasra No.46, the respondents had taken out certain proceedings for the purpose of constructing pond. It came to the notice of the petitioners on 14.11.2014 when the officials from respondent No.2 came to take possession. When the petitioners went to the office of respondent No.2, they were informed that there existed acquisition with regard to the land and even award was also given on 24.2.2010. After taking copy of the award, the petitioners also learnt that notification under section 4 of the Act had been issued on 29.1.2009, Annexure P.3 vide which the State Government had acquired the land for the purpose of construction of pond in various villages including the land of Village Terkiana Hadbast No.204 belonging to them. Objections were called and the concerned persons were heard. Ultimately, notification under section 6 of the Act was also issued on 25.5.2009, Annexure P.4. From the perusal of Annexure P.4, it came to notice that though Village Badahiya Hadbast No.447 was mentioned, in column No.4, the land of Village Terkiana HB No.204 was also shown. However, while announcing the award, no award was given with regard to land of Village Terkiana HB No.204. According to the petitioners, the possession has not been taken from them. On 14.11.2013, when the officials of respondent No.2 came to take possession, the Panchayat as well as the petitioners protested against the same as the pond was being constructed at the place which was adjoining abadi, mandir, church and school. However, nothing was done by the respondents. Hence

the instant writ petition by the petitioners.

3. We have heard learned counsel for the parties.

4. Admittedly, the land of the petitioners was acquired in the year 2009 for a public purpose, namely, construction of ponds in different villages. The present petition has been filed in the year 2014. After perusing the averments made in the petition and hearing learned counsel for the parties, we find that the claim of the petitioners under section 24(2) of the 2013 Act cannot be accepted as the award was passed on 24.2.2010. It would be expedient to refer to Section 24(2) of the 2013 Act which is in the following terms:-

“24. (2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. The award having been

announced in the present case on 24.2.2010 does not satisfy the essential requirements of Section 24(2) of the 2013 Act. Learned counsel for the petitioners has not been able to substantiate that the petitioners have any claim under Section 24(2) of the 2013 Act.

6. Learned counsel for the petitioners had sought to assail the notifications additionally on the ground that land of the petitioners should have been exempted as there was better land site available for the propose for which the land was being acquired. This contention cannot be accepted. Firstly, the notifications have been challenged after four years. Moreover, it is for the State to decide whether the land acquired is suitable for the purpose for which it has been acquired. However, the Court could have examined the issue provided the action was actuated with malafides which has not been shown in the present case. The land was acquired for a public purpose by the State Government. Section 16 of the Act reads as under:-

“16. Power to take possession.- When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.”

In view of the above, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

February 24, 2016
'gs'

(Raj Rahul Garg)
Judge