

**CM-10859-2016 in/and
CWP-24315-2014 (O&M)**

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

**CM-10859-2016 in/and
CWP-24315-2014 (O&M)
Date of Decision: December 06, 2016**

M/s Bihariji Ispat Udyog Limited

.....Petitioner

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.K.S.Khehar, Advocate
for the petitioner.

Mr.RKS Brar, Addl.AG, Haryana.

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SURYA KANT, J.

CM-10859-2016

For the reasons mentioned in the application, the same is allowed
subject to all just exceptions.

CWP-24315-2014

The instant writ petition has been filed challenging the
acquisition of petitioner's land situated within the revenue estate of village
Mewla Maharajpur, Tehsil Balabhgarh, District Faridabad, 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 short, 'the 2013 Act').

[2] The facts are not disputed at all.

[3] Land of the petitioner measuring 28K 02M, fully described in para 3 of the writ petition, was acquired by State of Haryana vide Award dated 07.10.1991.

[4] As soon as Sections 4 & 6 Notifications were issued, the petitioner-Company challenged the acquisition (before passing of Award) by way of CWP No.14290 of 1990 (**M/s Bihariji Ispat Udyog Limited vs State of Haryana and others**), primarily on the ground that it has set up a running industry at the acquired site. This Court vide order dated 08.11.1990 stayed dispossession of the petitioner.

[5] The above-stated writ petition was withdrawn on 13.09.1993 in view of the assurance of the respondents that they would release the petitioner's land. Since release order was passed, the petitioner again approached this Court by way of CWP No.10128 of 1995 but the same was dismissed on 13.11.1995.

[6] Despite the fact that both the writ petitions stood dismissed or withdrawn way back in the years 1993 and 1995, physical possession of the acquired site was not taken from the petitioner and it continued to run its industry at the acquired site. Petitioner continued in physical possession of the site on and after 01.01.2014 when the 2013 Act came into force.

[7] Similarly, the petitioner has averred that neither the compensation amount was paid nor it has been deposited with the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act'). Hence, it is averred that acquisition in question has lapsed on

both counts.

[8] Land Acquisition Collector, Urban Estate, Faridabad, has filed

the reply-affidavit dated 09.01.2015 and in para 3(B)(i) he has candidly admitted the fact that compensation amount is lying deposited with the Land Acquisition Collector as the petitioner did not give consent to receive the same. It is, thus, obvious that the compensation amount has not been deposited with the Reference Court as per Section 31(2) of the 1894 Act.

[9] Similarly in para 3(C), the Land Acquisition Collector has averred as follows:-

“That award no.2 was announced on 07.10.1991 for land measuring 182.99 acres of village Mewla Maharajpur including land in dispute, but the physical possession of the land of the petitioner could not be taken due to stay dispossession in CWP No.14290/1990 filed by the petitioner.”

[10] The fact of the matter is that there was no interim stay order granted by this Court in favour of the petitioner after 13.09.1993 or so. The authorities themselves failed to take possession of the acquired land/property.

[11] As a result of above discussion and for the detailed reasons assigned by us in CWP No.17464 of 2007 (**Satnam Singh and another vs The State of Haryana and others**), decided on 27.10.2016, there can be no other conclusion but to hold that the impugned acquisition qua petitioner's land is deemed to have lapsed on both the grounds enumerated in Section 24(2) of the 2013 Act.

[12] Ordered accordingly.

[13] Having held so, we are surely of the view that since Section 24 (2) of 2013 Act itself, in so many words, contemplates the possibility of reacquisition of the land/property in respect whereof the previous acquisition

has lapsed, it is necessary to direct the petitioner to maintain status quo re:

creation of third party rights; to keep the land/property free from all types of incumbrances 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.

**(SURYA KANT)
JUDGE**

December 06, 2016
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**(SUDIP AHLUWALIA)
JUDGE**

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