

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25657 of 2014 (O&M)

Date of Decision: 09.12.2016

Om Parkash

... Petitioner

VS.

Chandigarh Administration & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

- | | |
|--|-----------------|
| 1. Whether speaking/reasoned? | Yes / No |
| 2. Whether reportable? | Yes / No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes / No |
| 4. To be referred to the Reporters or not? | Yes / No |
| 5. Whether the judgment should be reported in the Digest? | Yes / No |

Present: Mr. Gurpreet Singh, Advocate for the petitioner

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 petitioner has laid challenge to the acquisition of his small plot measuring 3 marla situated within the revenue estate of village Manimajra, UT Chandigarh where he is said to have constructed a residential house bearing H.No.53 Indira Colony, Janta Nagar, Manimajra, Chandigarh. The acquisition was made vide award dated 05.03.2003.

(2) The foremost plea taken by the petitioner is that the above-stated 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 as neither the compensation amount was paid to him nor after he refused to give consent, it was deposited with the Reference Court as per Section 31(2) of the Land Acquisition Act, 1894 before

01.01.2014 when the new Act came into force. The petitioner further claims that the possession of the site is still with him.

(3) The respondents have furnished a separate chart in respect of the exact status of factual events. It is candidly admitted that the compensation was deposited only on 09.07.2014, namely, after the new Act came into force. Since the compensation was not paid or deposited as per Section 31 of the 1894 Act before 01.01.2014, the petitioner has successfully established one of the ingredient of Section 24(2) of the 2013 Act.

(4) As regard to possession, the respondents are claimed to have taken the same on 05.03.2010 but in the written statement it is admitted that the construction raised by the petitioner was demolished partially only.

(5) Be that as it may, once it is found that the petitioner was not paid compensation as per Section 31 of the 1894 Act and it was not deposited with the Reference Court within the stipulated period, the impugned acquisition is deemed to have lapsed.

(6) 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 & Anr. vs. State of Haryana & Ors.**, the instant writ petition is allowed and the impugned acquisition is declared to have lapsed in view of Section 24(2) of 2013 Act.

(7) 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 petitioner 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 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.

(8) Ordered accordingly.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge