

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8166 of 2014 (O&M)

Date of Decision: 09.12.2016

Ram Krishan Mahajan

... Petitioner

VS.

UT Chandigarh & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

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. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Pratap Atma Ram, 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 seeks a declaration that the acquisition of his land measuring 40 kanal 16 marlas fully described in para 2 of the writ petition and situated within the revenue estate of village Manimajra, UT Chandigarh 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 the reason that the possession of the acquired land is with him and no compensation was paid nor deposited with the Reference Court as per Section 31 of the Land Acquisition Act, 1894. The above-stated land was acquired vide award dated 18.05.1990 (P6).

(2) To shorten the controversy, suffice it to mention the facts from the affidavit dated 08.12.2016 which has been filed by Land Acquisition

of land measuring 40 kanal 16 marla but according to the respondent-authorities, the total land comes to 39 kanal 14 marla. There is thus a dispute with regard to 1 kanal 2 marla additional land claimed by the petitioner. As regard to compensation, in the affidavit says that *qua* other landowners it was deposited with the Reference Court on 25.07.2009 but so far as the petitioner is concerned, he did not claim the same and no compensation *qua* him has been deposited with the Reference Court. In fact the unclaimed compensation was deposited with the Reference Court on 08.07.2014 i.e. after the new Act came into force.

(3) Since the respondents have admitted to the extent that no compensation was deposited or paid before 01.01.2014 *qua* land measuring 39 kanal 14 marla and 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 acquisition *qua* the said land is declared to have lapsed. As regard to the dispute over 1 kanal 2 marla additional land, it is claimed by the petitioner that there are documents to suggest that the acquired land was actually 40 kanal 16 marla but in view of the specific objection raised by the Land Acquisition Collector, we direct the said authority to re-verify the claim of the petitioner; afford an opportunity of personal hearing to him and/or his representative and on verification of the revenue record, sale deeds and/or any other documents, re-determine as to whether the acquired land of the petitioner is 39 kanal 14 marla or 40 kanal 16 marla. If it is found that the petitioner's land is 40 kanal 16 marla, in that event, it is held that the acquisition *qua* the entire land shall be taken to have lapsed. The above-stated question shall be determined within three months from the date of receipt of certified copy of this order.

(4) 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.

(5) Ordered accordingly.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge