

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7327 of 2016

Date of Decision: 23.4.2016

Joginder Singh and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the 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?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. HPS Ishar, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. The petitioners through the instant writ petition filed under Articles 226/227 of the Constitution of India, have prayed for a direction for declaring the notifications dated 26.9.2007 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 25.9.2008 (Annexure P-2) under Section 6 of the Act and the award dated 24.9.2010 (Annexure P-3), having lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “2013 Act”).

2. State of Haryana issued a notification dated 26.9.2007 (Annexure P-1) under Section 4 of the Act following by notification dated

25.9.2008 (Annexure P-2) under Section 6 of the Act for acquisition of the land including the land of the petitioners for the development and utilization of land for residential area for Sector 2, Part 3, 4 and 5, Pinjore. The award was passed on 24.9.2010 (Annexure P-3). The petitioners are in continuous actual physical possession of the land in question as is discernible from the khasra girdawari (Annexure P-4) and have not received the compensation of the acquired land. According to the petitioners, the said acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

3. We have heard learned counsel for the petitioners.

4. It is the admitted position that the land of the petitioners was acquired in the year 2008 for a public purpose, namely, for the development and utilization of land for residential area for Sector 2, Part 3, 4 and 5, Pinjore. The award was passed on 24.9.2010. The claim of the petitioners under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 24.9.2010. 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 24.9.2010 does not satisfy the essential requirements of Section 24(2) of the 2013 Act.

6. 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. Thus, the present petition challenging the legality and validity of acquisition proceedings at the behest of the petitioners would not be competent. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

April 23, 2016
gbs

(DARSHAN SINGH)
JUDGE