

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.8132 of 2016.

Date of Decision: July 21, 2016

Shishir Gupta and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE DARSHAN SINGH.**

Present: Mr.R.D.Bawa, Advocate, for the petitioners.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J.

The petitioners have laid challenge to the Notifications dated 08.10.2003 and 07.05.2004 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), respectively, followed by the Award dated 08.05.2006, on the plea that the aforesaid acquisition has lapsed in view of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (for short 'the 2013 Act').

The petitioners' land was a part of the total area measuring 172 kanal 19 marla which was **“for the expansion of systematic development of the Tourist Complex at Surajkund, Village Lakarpur, Tehsil and District Faridabad..”**

Earlier also, the petitioners filed CWP No.3278 of 2009 in this

dismissed on 03.03.2009. They preferred Special Leave Petition before the Hon'ble Supreme Court which was also declined on 12.07.2010 though with liberty to the petitioners to seek enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 (for short 'the 1894 Act').

The petitioners thereafter accepted the compensation on 04.01.2011 under protest, obviously for the reason that they wanted to seek its enhancement.

It may be mentioned here that as per Rapat No.555 dated 05.05.2006, physical possession of the acquired land was handed-over to the beneficiary department, i.e., the Tourist Department.

Meanwhile, some other affected land-owners including the private-builders and colonizer M/s Eros City Developers Private Limited also challenged the subject acquisition in this Court and the writ petition filed by the said builder was allowed and acquisition qua its land was quashed. Resultantly, the expansion work of the Tourist Complex at Surajkund could not take place.

State of Haryana challenged the decision of this Court in Eros City Developers' case and finally its appeal has been allowed by the Hon'ble Supreme Court upholding the *bonafide* public purpose of acquisition. (Pl. see State of Haryana versus Eros City Developers Private Limited, AIR 2016 SC 451).

No sooner the desks are cleared for execution of the development project, the land-owners have started this second round of lis, now on the plea that the acquisition has 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') as the

Tourism Department has not taken possession of the acquired land.

We, however, do not find any merit in the plea taken by the petitioners. We say so for the reason that as per the revenue record, namely, the jambandi for the year 2009-2010 (P-6), the petitioners alongwith others are still recorded as the “owners” of the subject land though as per the remarks column No.12, the land has been acquired by the Government of Haryana. Column No.5 shows that “owners” are in possession of the land. Since the State of Haryana is admittedly the owner of the land as it has vested in the State free from all encumbrances, the entry of possession is by implication in favour of the State Government only. As per column No.8, the land is ‘*Banjar Qudim*’, namely, uncultivable. The petitioners thus cannot be heard to claim that they are in physical possession of the acquired land. The photographs on record reveal that the land is lying ‘*barren*’ without any agricultural activities. It obviously means that the petitioners have abandoned the possession.

The petitioners have admittedly received compensation way back on 04.01.2011. In this view of the matter, the principles laid down by the Hon’ble Supreme Court in (i) Pune Municipal Corporation and others versus Harakchand Misirimal and others, (2014) 3 SCC 183 and (ii) Union of India versus Shiv Raj and others (2014) 6 SCC 564 are distinguishable and cannot be applied to the facts and circumstances of the case in hand.

For the reasons afore-stated, we find no merit in this writ petition which is accordingly dismissed.

[SURYA KANT]
JUDGE

[DARSHAN SINGH]
JUDGE

July 21, 2016