

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

CWP No. 17712 of 2009 (O&M)

Date of decision: 12.12.2017

Jitender Kumar and another

.. Petitioners

VS

The State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. I. D. Singla, Mr. Ajay Jain and
Mr. Ashish Gupta, Advocates, for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Rajesh Bindal, J.

This order will dispose of three writ petitions bearing CWP Nos. 17712 of 2009, 14752 of 2014 and 2962 of 2017, as common questions of law and facts are involved therein.

The petitioners have approached this Court claiming that acquisition of land in question has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act'), as neither the possession of the acquired land has been taken nor the compensation thereof has been paid.

Learned counsel for the petitioners submitted that notifications for acquisition of the said land under Section 4 and 6 of the Land Acquisition Act, 1894 (for brevity 'the 1894 Act'), were issued on 29.8.2005

and 28.8.2006, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 3.8.2007. Neither the compensation for the acquired land has been paid nor physical possession of the land has been taken. He further submitted that on the acquired land, construction was already existing before publication of the notification under Section 4 of the 1894 Act and the petitioners are in possession thereof ever since then. The petitioners had even filed objections under Section 5A of the 1894 Act. It was further submitted that all adjacent plots have been released by the respondents after the announcement of the award. Neither any development activity has been carried out on the acquired land nor any development plan has been prepared, though the land was acquired more than 12 years back. Land measuring 36.67 acres has already been released by the State.

Learned counsel for the State fairly did not dispute the fact that the compensation for the acquired has not been paid to the petitioners. And construction was existing on the acquired land.

Heard learned counsel for the parties and perused the paper book.

Section 24(2) of the 2013 Act provides that acquisition of land would lapse in cases where award had been announced by the Collector five years prior to the enactment of the 2013 Act i. e. 1.1.2014, in case either the compensation for the acquired land has not been paid or the physical possession thereof had not been taken.

In the case in hand, it is the admitted position on record that the petitioners have not been paid the amount of compensation for the acquired land. In addition, admittedly even the construction was existing prior to the issuance of notification under Section 4 of the 1894 Act and the petitioners

are still in possession of the constructed portion. No development has been carried out though the land was acquired way back in the year 2005.

In view of our aforesaid discussions, the ingredients as laid down in Section 24(2) of the 2013 Act having been satisfied, acquisition of land owned by the petitioners has lapsed.

However, the State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners for purchasing/ retaining the land in accordance with law, in case the land in question is required for completion of any project or otherwise. The petitioners shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision.

The writ petitions are disposed of accordingly.

(Rajesh Bindal)
Judge

12.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned?

Yes/No

Whether Reportable

Yes/No