

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.11715 of 2013 (O&M)

Date of decision : 30.10.2017

Bimla and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

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

Present: Mr. R.Kartikeya, Advocate,
 for the petitioners in CWP No.11715 of 2013.

Mr. Arun Jain, Senior Advocate with
Mr. Sunil Sharma, Advocate,
for the petitioner in CWP No.25365 of 2016.

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

Mr. Amit Parashar, Advocate,
for respondent No.6 in CWP No.11715 of 2013.

Mr. Sunish Bindlish, Advocate,
for respondent Nos.7 to 10 in CWP No.11715 of 2013.

Mr. Sanjay Vij, Advocate,
for respondent No.11 in CWP No.11715 of 2013.

Rajesh Bindal, J.

This order will dispose of two writ petitions bearing CWP No.
11715 of 2013 (*Bimla and others versus State of Haryana and others*) and
CWP No. 25365 of 2016 (*M/s New Era Infrastructure Private Limited
versus The State of Haryana and others*).

Claim made by the petitioners is that acquisition of land in question has lapsed, in view of the provisions of 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 neither the possession of the acquired land has been taken nor the compensation thereof has been paid.

In CWP No.25365 of 2016, learned senior counsel for the petitioner submitted that there was construction existing on the acquired land, prior to issuance of notification under Section 4 of the Land Acquisition Act, 1894 (for short “the 1894 Act”). The issue was raised even in the objections filed under Section 5-A of the 1894 Act.

As far as the contention raised by learned counsel for the petitioner in CWP No.25365 of 2016 regarding existence of construction on the acquired land, prior to issuance of notification under Section 4 of the 1894 Act, the fact is not disputed by the learned counsel for the State.

Learned counsel for the State fairly submitted that the notification under Section 4 of the 1894 Act was issued on 29.11.2001, whereby the land measuring 664.13 acres pertaining to the revenue estates of villages Rasoi, Nangal Kalan, Kundli and Nathupur, was notified. Vide notification issued under Section 6 of the 1894 Act dated 28.11.2002, 654.62 acres of land was notified for the acquisition. The Land Acquisition Collector vide award dated 24.11.2004 finally acquired 453.52 acres of land. For the rest of the land, though notification under Section 6 of the 1894 Act was issued, but no award was announced. The total amount of compensation determined by the Collector was ₹ 43,98,54,550/-, out of

which, one of the land-owner, namely, Satbir son of Roop Chand has received a sum of ₹ 1,39,363/-. In total, only a sum of ₹ 1,97,400/- has been paid as compensation to the land-owners, whose land was acquired. It comes out to 0.04% of the total amount of compensation determined by the Collector. Otherwise, it is claimed that the amount of compensation is lying deposited in the account with the Land Acquisition Collector. The award was passed way back on 24.11.2004. Till date, no development activity has been carried out, though possession of the land was taken.

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 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, in CWP No. 25365 of 2016, admittedly even the construction was existing prior to the issuance of notification under Section 4 of the 1894 Act and the petitioners therein are still in possession of the constructed portion.

In view of the aforesaid discussion, in our view, 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

30.10.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No