

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

CWP No. 13488 of 2014 (O&M)

Date of decision : 6.11.2017

Whirlpool of India Limited

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Chetan Mittal, Senior Advocate with
 Mr. Anil Kumar Rana, Advocate, for the petitioner.

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

Rajesh Bindal, J.

The present petition has been filed praying that the acquisition of land owned by the petitioner 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 short, the 2013 Act'), as neither the compensation has been paid nor the possession thereof was taken.

In the present case, notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') was issued on 10.6.1988, for acquisition of land situated in the area of village Ballabgarh, Hadbast

No. 78, village Jharsantly, Hadbast No. 44, Tehsil Ballabgarh, District Faridabad, for the development and utilisation thereof as Industrial Area in Sector-59, Faridabad. The petitioner filed objections under Section 5-A of the 1894 Act, claiming that the land has already been utilized for industrial purpose. Thereafter, notification under Section 6 of the 1894 Act was issued on 7.6.1989. The Land Acquisition Collector announced the award for the acquired land on 20.3.1991.

Learned counsel for the petitioner submitted that as the industrial unit of the petitioner was already existing, part of the land proposed to be acquired was released while accepting objections under Section 5-A of the 1894 Act. An area measuring 38 kanals 15 marlas was finally acquired, which was the open compound required for future expansion, adjoining the factory building. The petitioner is an industrial unit of international repute. Though the entire industrial estate has already been developed but the area in question has not even been planned for development for the last more than three decades. It is still in possession of the petitioner. Even the compensation thereof has not been deposited with the Land Acquisition Collector, what to talk of in the Court, hence, the acquisition in question has lapsed.

On the other hand, learned counsel for the State did not dispute the fact that the compensation for the acquired land has not been paid to the petitioner and further the same is lying in the account of the Chief Controller of Finance, HUDA. He further did not dispute the fact that the area in question is adjoining to the industrial unit of the petitioner, which has already been released from the acquisition and it has yet not been

planned. Even the area adjoining thereto has also not been planned, even though the entire industrial sector has already been planned and has been developed, though it is sought to be claimed that the 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 admitted position on record that the amount of compensation for the acquired land has not been paid to the petitioner. The petitioner unit had been set up much prior to the acquisition of land. The area on which the construction was there, was initially released from acquisition. The area measuring 38 kanals 15 marlas, which was lying vacant at that time forming part of same complex required for expansion, was notified for acquisition. The purpose of acquisition is also to develop the industrial estate. Though it was claimed by the respondents that the possession of the acquired land was taken, however, the facts remain that not only the area in question but on land even adjoining thereto, no development activity has been carried out till date. The area has yet not been planned for development though large chunk of land acquired vide same notification way back in the year 1988 was already developed and industrial units setup.

For the reasons mentioned above, as the ingredients laid down in Section 24(2) of the 2013 Act are clearly made out, hence, the acquisition has lapsed qua the petitioner.

However, the State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowner 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 petitioner shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision.

The writ petition is allowed.

(Rajesh Bindal)
Judge

6.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No