

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

CWP No. 14420 of 2014 (O&M)

Date of decision : 6.11.2017

Chet Ram

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Ashwani Talwar and Mr. Sandeep Sharma, Advocates,
 for the petitioner.

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

Rajesh Bindal, J.

Claim made by the petitioner 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”).

Learned counsel for the petitioner submitted that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short “the 1894 Act”), were issued on 24.8.2000 and 22.8.2001, respectively. The award was announced by the Land Acquisition Collector on 21.7.2003. He submitted that the petitioner is in actual physical possession of the acquired land. The award was passed more than 14 years back, but the petitioner has not received any compensation till date.

Learned counsel for the State submitted that the notification under Section 4 of the 1894 Act was issued on 24.8.2000 for acquisition of land. The award was announced by the Collector on 21.7.2003. The amount of compensation determined by the Collector has not been received by the petitioner. The area has already been developed. The plots have already been allotted, though construction is yet to be raised by the allottees.

Learned counsel for the State further submitted that the petitioner along with other landowners filed CWP No. 8460 of 2006 Jagmal Singh and others vs State of Haryana and others, challenging the acquisition, which was disposed of on 26.5.2006, in terms of earlier order dated 16.7.2005 passed by this Court in CWP No. 10845 of 2004. The matter was to be reconsidered by the High Powered Committee on a representation to be submitted by the petitioner within a period of seven days from the date of order. The High Powered Committee decided the issue vide order dated 11.8.2001, specifically noticing that the petitioner did not file any representation even after more than four years. Again the petitioner along with one Jagmal filed CWP No. 8242 of 2012 Jagmal and another vs State of Haryana and others, impugning the action of the State, which was dismissed on 4.5.2012. Even Special Leave to Appeal No. 4493 of 2014 filed by the petitioner against the aforesaid order was dismissed by Hon'ble the Supreme Court vide order dated 30.6.2014. Hence, at this stage no case is made out for interference by this Court. The petitioner may collect compensation of his share along with interest, if he is entitled to as per law.

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, the brief previous history of the case is necessary to be mentioned. The petitioner along with other landowners earlier filed CWP No. 8460 of 2006 Jagmal Singh and others vs State of Haryana and others, challenging the acquisition on the ground that petitioner nos. 1 to 4 therein have entered into collaboration agreement with petitioner no. 5 therein for the development of the land for which purpose application for grant of licence was applied with the authorities. The writ petition was disposed of on 26.5.2006, in terms of earlier order passed by this Court in CWP No. 10845 of 2004, decided on 16.7.2005. In terms thereof, the matter was to be examined by the High Powered Committee to be constituted by the State. The petitioner was given seven days time from the date of the passing of the order to submit representation to the Committee. The Committee decided the matter on 11.8.2001, while noticing that the petitioner failed to submit any representation even after more than four years. It further found that the case of the petitioner was not covered under any of the policies referred to by him. Order was again challenged by the petitioner by filing CWP No. 8242 of 2012 Jagmal and another vs State of Haryana and others, which was dismissed on 4.5.2012, on the ground that the petitioners therein do not satisfy the conditions for release of land as per the criteria fixed and there was no construction on the land in dispute. The petitioners applied for license after the date of notification

under Section 4 of the 1894 Act. Even Special Leave to Appeal No. 4493 of 2014 filed by the petitioner against the aforesaid order was also dismissed by Hon'ble the Supreme Court vide order dated 30.6.2014. Now 3rd round of litigation was started only after the new Act, namely, the 2013 Act came into force. It was in force even when the Special Leave to Appeal was dismissed by Hon'ble the Supreme Court on 30.6.2014.

As far as the amount of compensation is concerned, part of that has been paid to the co-owners, however, in the case of the petitioner, the same is lying with the Collector, which he failed to collect despite notice. The petitioner even filed objections under Section 18 of the 1894 Act. Enhanced amount to the tune of ₹ 11,69,12,360/- was paid to the two co-owners of the joint khewat. The definite stand of the State is that the possession was taken and even the plots were carved out. The infrastructure facilities have been provided. This fact is even established from the photographs annexed by the petitioner with the writ petition where the road and electric poles are evident. The photographs annexed by the State with the reply shows other development activities, such as sewerage/ water disposal system is also in place. The petitioner shall be at liberty to collect the compensation along with interest, if entitled to.

Hon'ble the Supreme Court in Mahavir and others vs Union of India and another, 2017(5) R.A.J. 430 opined that in cases where there is deliberate act of the landowners in not collecting the compensation, Section 24(2) of the 2013 Act does not come to their rescue. The provisions come to the rescue of those persons, who are deprived of compensation, but not for those who deliberately do not receive it. Failure to deposit compensation in court under Section 31(1) of the 1894 Act in such cases would only attract

interest, as envisaged under Section 34 of the 1894 Act and the provisions of Section 24(2) of the 2013 Act cannot be invoked. The relevant paras from the aforesaid judgment are extracted below:-

20. In our opinion, the cases in which there is deliberate action of the owners for not collecting the compensation and they do not want to receive it, section 24(2) of the 2013 Act does not come to their rescue as provisions are to help those persons who are deprived of compensation but not for those who deliberately had not received it and litigated for decades for quashing of proceedings avoiding to receive compensation by willful act. The failure to deposit in court under section 31(1) in such cases would attract only interest as envisaged under section 34 of the Act and the provisions of section 24 cannot be so invoked in such cases.

21. In the instant case, the claim has been made not only belatedly, but neither the petitioners nor their previous three generations had ever approached any of the authorities in writing for claiming compensation. No representation had ever been filed with any authority, none has been annexed and there is no averment made in the petition that any such representation had ever been filed. The claim appears not only stale and dead but extremely clouded. Thus we are mentioning as additional reasons, as such claims not only suffer from delay and laches but courts are not supposed to entertain such claims. Besides such claims become doubtful, and cannot be received for consideration being barred due to delay and laches.

22. The High Court has rightly observed that such claims cannot be permitted to be raised in the court, and cannot be adjudicated as they are barred. The High Court has rightly observed that such claims cannot be a

subject matter of inquiry after the lapse of a reasonable period of time and beneficial provisions of section 24 of the 2013 Act are not available to such incumbents. In our opinion, Section 24 cannot revive those claims that are dead and stale.”

In view of our aforesaid discussions, we do not find that conditions as laid down in Section 24 (2) of the 2013 Act have been complied with, hence, there is no merit in the present petition. The same is accordingly dismissed. However, the petitioner may collect the compensation of his share along with interest, if entitled to.

(Rajesh Bindal)
Judge

6.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No