

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

CWP No. 15217 of 2016 (O&M)

Date of decision: 20.12.2017

Balbir Singh and others

.. 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. Shailendra Jain, Senior Advocate with
 Mr. Harman Jivtesh Singh, Advocate, for the petitioners.

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

Rajesh Bindal, J.

Learned counsel for the petitioners submitted that acquisition of the acquired land for which notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), were issued on 15.4.2002 and 16.4.2002, respectively, has lapsed as neither the possession thereof had been taken nor compensation was paid to them. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 6.11.2003. He further submitted that acquisition in the present case was for construction of 30 meters wide sector road. After construction of road, some portion of land has been left out, which is of no use to the State, as this is not in proper shape. It was further submitted that the construction was also existing on the part of the land. Further it was submitted that on all the sides of the acquired land, the land has either been released from acquisition or the license has been granted to the private builders for development as residential and commercial area.

Learned counsel for the State did not dispute the fact that the

compensation for the acquired land was not taken by the petitioners, which is lying deposited with the Collector and further that acquisition in the case in hand was for sector roads between sectors 49-50 and 50-51, Gurugram, which has already been constructed and the roads are functional. As far as the remaining left out land is concerned, the same is lying unused. For the adjoining land, licenses have been granted. The left over land could not be utilized. This part of land is not adjoining to any of land acquired by the State.

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

Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, '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 has not been taken. In the case in hand the fact that compensation for the acquired land has not been paid to the petitioners is not in dispute. Further that leftover land after construction of roads could not be planned for development as acquisition in question was only for construction of road. Adjoining to that is the licensed land of the builders. Acquired land is lying vacant. The petitioners are seeking lapsing of only the portion of land, which is left after road has been constructed.

As consented by learned counsel for the parties, the State shall be entitled to retain possession of the portion of the land, which has been utilized for construction of sector road, however, subject to payment of

compensation therefor. The left over land owned by the petitioners will be of no use to the State, as adjoining land thereto is owned by the builders to whom license has been granted by the State for development as residential and commercial area. Further compensation therefor has not been paid. Though as per the State, the land is lying vacant whereas the petitioners claimed that construction is existing thereon. The area has not yet been planned for development.

For the reasons mentioned above, in our opinion, ingredients as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land except the portion which has been utilized for construction of road, has lapsed. Compensation for the portion of land utilized for the road be paid to the petitioners.

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 stands disposed of.

(Rajesh Bindal)
Judge

20.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No