

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16477 of 2015 (O&M)
Date of decision: 4.12.2017

Surja Bhan

.. Petitioner

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vikas Kumar, Advocate for the petitioner.

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

Ms. Neelam Nehra, Advocate for
Mr. Deepak Balyan, Advocate for HSIIDC.

...

Rajesh Bindal J.

The petitioner has filed the present petition claiming that acquisition of part of the land owned by him measuring 3 kanals and 8 marlas, forming part of khasra Nos. 19/1/2 and 22/2, situated in village Chandawali, Tehsil Ballabgarh, District Faridabad 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').

Learned counsel for the petitioner submitted that the petitioner was owner of 38 kanals and 7 marlas of land, which was sought to be acquired vide notification dated 31.7.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'). As there was construction existing on the acquired land, the petitioner filed objections under Section 5A of the 1894 Act. The matter was considered by High Powered Committee and 10 marlas of land was left from acquisition when notification under Section 6 of the 1894 Act was issued. Immediately, the petitioner filed CWP No. 15618 of 2007 in this Court challenging the acquisition. Plea was raised that the petitioner having raised construction, the area deserved to be released from acquisition. The same was dismissed vide order dated 27.1.2010. The same was challenged before Hon'ble the Supreme Court. Civil Appeal No(s). 4254 of 2015 –Karan Singh and others v. State of Haryana and others, was disposed of on 5.5.2015 granting liberty to the petitioner to invoke provisions of Section 24(2) of the 2013 Act, as he claimed that neither compensation had been paid nor possession had been taken. Subsequent thereto, the present petition has been filed.

While invoking the provisions of the 2013 Act, learned counsel for the petitioner submitted that possession of the acquired land had not been taken from the petitioner and further compensation for that portion of land had not been paid to him, hence, the acquisition has lapsed. To prove that the petitioner is still in possession of the land, he relied upon demarcation report dated 20.6.2014, which was carried out in terms of an

the petitioner was still in possession of the portion of land. During the pendency of CWP No. 15618 of 2007, interim stay regarding dispossession of the petitioner from the constructed area on the land under acquisition was granted by this court.

On the other hand, learned counsel for the respondents submitted that after objectively considering the objections filed by the petitioner under Section 5A of the 1894 Act, 10 marlas of land, where construction had been raised, was released from acquisition. The writ petition filed by the petitioner thereafter challenging the acquisition was dismissed on 27.1.2010 along with a bunch of petitions. Even before Hon'ble the Supreme Court, the petitioner did not press to challenge the acquisition on merits, rather, sought permission to invoke the provisions of Section 24(2) of the 2013 Act. Liberty was granted. The award was announced by the Land Acquisition Collector (for short, 'the Collector') on 29.7.2008. As the petitioner refused to accept the compensation, a sum of ₹ 10,45,412/- was deposited in court. As the petitioner had simultaneously filed objections under Section 18 of the 1894 Act disputing the amount of compensation and after decision thereof by the Reference Court, enhanced compensation of ₹ 97,18,942/- were paid to the petitioner, however, later on, the petitioner returned a sum of ₹ 8,89,500/-. Thereafter, even the enhanced compensation, as determined by this court, has also been paid to the petitioner. In terms of policy for Rehabilitation and Resettlement of Land Owners-Land Acquisition Oustees, the petitioner has already been allotted plot No. 312, measuring 324 square meters vide allotment letter dated 15.11.2013 and the petitioner deposited 10% of the allotment price

amounting to ₹ 3,52,604/-, vide receipt dated 23.12.2013.

As far as possession of the land is concerned, the same was taken and handed over to the beneficiary department vide *kabaza karwai* dated 3.6.2011, which was entered in roznamcha at No. 780. It was done after dismissal of the writ petition filed by the petitioner by this court. He further submitted that the petitioner had no right, title or interest to retain possession of any land beyond 10 marlas, which was not acquired. In fact, that is the only portion which is in possession of the petitioner. Rest of the land is just lying vacant. He further submitted that the petitioner cannot take advantage of the demarcation report, which is a document got created with a view to establish that the petitioner is in possession of the part of the acquired land. Admittedly, the civil suit was filed by the petitioner against some private persons knowing well that the land had already been acquired. The State had not been impleaded as a party. Even that also shows that there is some boundary wall in addition to some construction. The construction had already been released from acquisition. It was prayed that compensation having been paid to the petitioner and possession of the land taken by the authorities, the petitioner cannot invoke the provisions of Section 24(2) of the 2013 Act. The area has already been developed and plots have been allotted for setting up of industries.

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

The petitioner claimed that he is owner to the extent of 38 kanals and 7 marlas of land, which was notified for acquisition under Section 4 of the 1894 Act on 31.7.2006. The petitioner filed objections

claiming that on the land house and cattle shed had been constructed and there are some trees standing. After accepting the objections filed by the petitioner, 10 marlas of land was not acquired when notification under Section 6 of the 1894 Act was issued. The petitioner filed CWP No. 15618 of 2007 in this court challenging the acquisition. The writ petition was dismissed along with a bunch of petitions on 27.1.2010. It has been noticed in the order that earlier a Division Bench of this Court in CWP No. 15470 of 2007—Nabbal and others v. State of Haryana and others, decided on 7.1.2009, had already upheld the acquisition vide same notification. It was specifically noticed that no case for discrimination had been made out. The public purpose was fully established. The structures, which were not forming part of development plan, had already been released from acquisition. After dismissal of the aforesaid petition, the State had taken possession of the acquired land vide kabza karwai dated 3.6.2011 and handed over the same to beneficiary department. Leave to appeal was granted by Hon'ble the Supreme Court against the judgment of this court. Civil Appeal No(s). 4254 of 2015 along with bunch of appeals filed by the petitioner was finally disposed of on 5.5.2015. The issue on merits was not at all raised by the appellants therein as with the enactment of the 2013 Act, liberty was sought to invoke the provisions of Section 24(2) thereof claiming that either compensation had not been paid or possession had not been taken by the State. The bunch of appeals were disposed of granting liberty to the appellants therein to initiate proceedings under Section 24(2) of the 2013 Act. They were also given liberty to get the appeals revived in case the order under Section 24 of the 2013 Act is adverse to them.

petitioner in the earlier round of litigation, there was interim stay of dispossession qua the constructed area on the land under acquisition, however, the award was announced by the Collector on 29.7.2008. The petitioner having not received the amount of compensation as assessed by the Collector, ₹ 10,45,412/- were deposited in the Reference Court. The petitioner thereafter filed the objections under Section 18 of the 1894 Act. 50% of the enhanced compensation, i.e., ₹ 97,18,942/- was paid to the petitioner. Out of the same, a sum of ₹ 8,89,500/- was returned by him. Balance 50% enhanced compensation was deposited with the Reference Court. The amount was further enhanced by this court and the enhanced compensation of ₹ 12,04,283/- was received by the petitioner.

Further, as stated by learned counsel for the respondents, the area has already been developed and even plots have been allotted. The demarcation report, as is sought to be relied upon by the petitioner, may not come to his rescue for the reason that apparently the civil suit was filed with oblique motive. The petitioner was well within knowledge of the fact that the land had already been acquired. He had even received the compensation therefor, but still he filed the civil suit against some private persons alleging that his possession is sought to be disturbed. All around there was land owned by the State. What has been produced on record is only the demarcation report. The petitioner, in any case, in that case could not claim that he is the owner of the land. Any such statement will be contrary to the facts.

For the reasons mentioned above, we do not find any merit in

the present petition. The same is, accordingly, dismissed. Any amount of compensation, which the petitioner had deposited with the Collector, can be claimed by him.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

4.12.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No