

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

CWP No. 13745 of 2017 (O&M)

Date of decision : 18.12.2017

Nand Kishore and others

.. Petitioners

versus

State of Haryana and another

.. Respondents

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

Present: Mr. Vikram Singh, Advocate, for the petitioners.

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

Rajesh Bindal, J.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban
Estate, Gurugram, Haryana dated 3/5.12.2017 filed in Court is taken on
record.

The petitioners have filed the present petition claiming that 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'), the acquisition has lapsed, as neither
compensation for the acquired land has been paid to the petitioners nor
possession thereof has been taken from them. Notifications under Sections
4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were
issued on 27.8.1987 and 25.8.1988, respectively. Award was announced by
the Land Acquisition Collector (for short, 'the Collector') on 16.3.1989.

Learned counsel for the petitioners submitted that the petitioners have not received compensation for their land measuring 13 marlas falling in Killa No.51//7/1. He further submitted that the residential house exists over the aforesaid plot and possession thereof has not been taken from them. They are still in physical possession thereof.

On the other hand, learned counsel for the State, on instructions from Vivek Kalia, Estate Officer-II, Gurgaon, did not dispute the fact that the land in question is 13 marlas, on which the petitioners had raised construction and did not receive the compensation as assessed by the Collector, however, enhanced compensation for the entire land including the land in dispute was deposited in the reference Court on 2.2.2001. He further submitted that in total, the land measuring 7 kanals 11 marlas falling in Killa No.51//7 of the petitioners came under acquisition. Compensation was not taken only for 13 marlas of land. As far as the constructed area of 13 marlas (393.25 square yards) is concerned, liberty be given to demarcate the same, by fixing the time and date.

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 physical possession thereof has not been taken.

In the case in hand, it is the admitted position on record that the land in question is only 13 marlas, on which construction was raised by the

petitioners before issuance of notification under Section 4 of the 1894 Act. The petitioners have not received compensation for the land in question i.e. 13 marlas as assessed by the Collector, however, enhanced compensation was deposited in Court.

For the reasons mentioned above, in our opinion, the conditions as contained in Section 24(2) of the 2013 Act having been complied with, acquisition qua 13 marlas of land, has lapsed. However, the State shall be at liberty to withdraw the amount of compensation deposited with the Court and for the land measuring 13 marlas pay compensation to the petitioners, if not already paid. The State will demarcate the area in the presence of the petitioners on 8.2.2018. In case construction is found on excess area, the petitioners shall remove the same.

The petition is allowed accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

18.12.2017
sharmila

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