

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

CWP No. 1453 of 2017 (O&M)

Date of decision : 11.12.2017

Mam Chand and another

.. Petitioners

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Shashikant Gupta, 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 8.12.2017 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 the petitioners
have neither been paid compensation for the acquired land 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
30.10.1992 and 28.10.1993, respectively. Award was announced by the
Land Acquisition Collector (for short, 'the Collector') on 26.10.1995.

Learned counsel for the petitioners submitted that neither compensation for the acquired land has been paid to the petitioners nor possession thereof has been taken from them. It was submitted that petitioners had purchased 150 square yards of plot along with construction forming part of khasra No.1320, prior to issuance of notification under Section 4 of the 1894 Act vide registered sale deed dated 27.6.1992. The petitioners are still in physical possession of the house in question.

Learned counsel for the State did not dispute the fact that the petitioners had purchased 150 square yards of constructed house with boundary wall prior to issuance of notification under Section 4 of the 1894 Act and they are still in physical possession thereof. However, he submitted that some part of the open area from the compound is coming in the alignment of sector road. In case the petitioners consent for giving that portion of land for construction of road, the State will give equivalent area to the petitioners on the back side of their constructed portion. In the process alignment of the sector road and its width will remain uniform and the petitioners's plot will be given proper shape. Learned counsel for the State further submitted that the area has been developed and plots have been carved out, which are of 8 marlas each. In case the petitioners are interested, the State will allot additional land to the petitioners to give their plot a proper shape, at the rate on which the plots are now being offered for allotment, so that the petitioners also have uniform size of plot. Offer is being made considering that otherwise small area left in the rear portion of the plot of the petitioners may be of no use of the State.

Learned counsel for the petitioners submitted that the

suggestion made by learned counsel for the State regarding allotment of equivalent area in the rear portion of the constructed area in exchange of the area on the front portion, which is coming in the road alignment, is acceptable to the petitioners and the petitioners are ready and willing to pay the price for the additional area, which may be allotted to the petitioners at the current price to make the size of the plot of the petitioners uniform.

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.

Possession of the plot of the petitioners having not been taken acquisition qua that has lapsed in view of provisions of Section 24(2) of the 2013 Act. However, as consented by learned counsel for the parties, the State shall be entitled to take possession of the portion of the land on the front side of the plot of the petitioners, which is coming in the road alignment, however, subject to the condition that no part of the main building of the petitioners is to be demolished in the process unless the petitioners consent for that. If portion of the boundary wall is coming in the alignment, the same will be demolished by the petitioners. Equivalent area, possession of which is taken by the State on the front side for the purpose of road alignment, will be given to the petitioners on the back side to make total area available with the petitioners equivalent to the area presently owned by them. Further as agreed by the parties and considering the fair stand taken by the respondents that the plots in the area have already been

carved out, which are of 8 marlas each; the petitioners owned only 150 square yards of plot and constructed portion of the house of the petitioners falls in the one of the plot of 8 marla; balance area in addition to the area owned by the petitioners falling on the back side may not be of any use to the State, the same may be allotted to the petitioners subject to their depositing the price therefor at the rate on which the plots are being offered for allotment presently.

Demarcation be carried out in the presence of the parties on 30.1.2018 and the process of allotment of balance area may be completed within three months. The petitioners will remove the construction, if any, pointed out, which is coming in the road alignment.

The writ petition is allowed accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

11.12.2017
sharmila

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