

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

CWP No. 14540 of 2017 (O&M)

Date of decision: 20.12.2017

Dalbir Singh and others

.. Petitioners

vs

State of Haryana and others

.. Respondents

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

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Abhishek Sanghi, 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.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban
Estate, Gurugram, dated 3.12.2017, filed in Court, is taken on record.

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
8.9.1997 and 7.9.1998, 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
6.9.2000.

Learned counsel for the State did not dispute the fact that the
compensation for the acquired land has not been taken by the petitioners,
which is lying deposited with the Collector. However, he submitted that

about 1000 square yards of land owned by the petitioners is required for construction of 60 meters wide sector road. After that portion is taken, the left over portion of the land owned by the petitioners will fall on both sides of the road. Total land owned by the petitioners is about 6000 square yards, out of which 1000 square yards may be required for construction of road. The State can allot land to the petitioners on one side of the road adjoining to the Hotel site in Sector 42, Gurugram. However, he submitted that on measurement the land available may be less than the total remaining land of the petitioners, for that the State shall pay compensation to them.

Learned counsel for the petitioners submitted that the petitioner do not have any objection to the acquisition of land required for construction of road, subject to payment of the compensation. He further submitted that the petitioners have no objection in case left over land is earmarked on one side of the road in Sector 42, Gurugram in one compact block instead of two portions remaining on two sides of sector dividing road. In case the area earmarked is found to be less than the area which is required to be given to the petitioners in exchange, they may be compensated for that as well.

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, it is not disputed that compensation for the acquired land has not been paid to the petitioners and further the respondents could not establish that the possession thereof had been taken, as construction of road could not be completed on this portion of land, hence, the acquisition will lapse.

However, as consented by learned counsel for the parties, the State shall be entitled to take possession of the portion of the land, which is required for construction of sector road, however, subject to payment of compensation therefor. The left over land owned by the petitioners will be earmarked on one side of the road in Sector 42, Gurugram in one compact block. In case the area earmarked is found to be less than the area which is to be given to the petitioners in exchange, they be paid compensation for that also.

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, which is required for construction of road, has lapsed. However, the State shall be entitled to take possession of portion of land required for construction of 60 meters sector road subject to payment of compensation therefor.

The area will be demarcated by the authorities on 12.2.2018 after informing the petitioners. The petitioners will be given land in exchange on one side of the road in Sector 42, Gurugram. If area found is less than the entitlement of the petitioners, they be paid compensation even for the same.

However, the State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners 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 petitioners 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 accordingly.

(Rajesh Bindal)
Judge

20.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No