

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

CWP No. 20359 of 2014 (O&M)

Date of decision : 5.12.2017

M/s Mishri Devi Charitable Trust 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. Aashish Chopra, Advocate and
 Ms. Rupa Pathania, 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 5.12.2017, filed in Court, is taken on record.

Claim made by the petitioners is that acquisition of land in question has lapsed, 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”), as the compensation on account of acquisition of land has not been paid.

Petitioner, Mishri Devi Charitable Trust, was registered as a Trust on 1.4.1999. It runs school namely West Academy Senior Secondary School, Pataudi. Petitioner nos. 2 to 5 are owners of land measuring 5 acres 3 kanals 1 marla, situated in Village Pataudi, Tehsil Pataudi, District Gurugram. The aforesaid land was sought to be acquired for which notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for

short “the 1894 Act”), were issued on 6.1.2004 and 17.12.2004, respectively. The award was announced by the Land Acquisition Collector (for short, 'the Collector') on 9.1.2006. It was submitted that earlier out of 4 acres 5 kanals 5 marlas of land, 3 acres 2 kanals 12 marlas of land was released vide order dated 6/7.5.2015. The remaining land measuring 1 acre 4 kanals 13 marlas was sought to be acquired. On this area, the Primary Block of the School was constructed. In the said block, primary school is running. The compensation for the acquired land has not been paid to the petitioners.

Learned counsel for the State fairly did not dispute the fact that the land in question falls within the compound of the school as boundary wall had been constructed prior to the issuance of notification under Section 4 of the 1894 Act and a school is running there. Even compensation amount for the land in dispute has not been taken by the petitioners.

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 possession thereof had not been taken.

In the case in hand, it is the admitted position on record that the petitioners were running a school on the land measuring 4 acres 5 kanals 5 marlas. CLU was granted to it for 3 acres 2 kanals 12 marlas and area of land measuring 1 acre 4 kanals 13 marlas is within the compound of the school as boundary wall has been constructed. Though the claim of the

petitioners is that on this area as well construction existed. The fact remains that possession thereof has not been taken. Even compensation has not been paid for the land in dispute.

In view of our aforesaid discussions, the ingredients as laid down in Section 24(2) of the 2013 Act having been satisfied, acquisition of land owned by the petitioners measuring 1 acre 4 kanals 13 marlas has lapsed.

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 is disposed of accordingly.

(Rajesh Bindal)
Judge

5.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No