

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

CWP No.20136 of 2016 (O&M)

Date of Decision:- 29.08.2017

Nand Kishore

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present:- Mr. Vikram Singh, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl. A.G. Haryana.

Rajesh Bindal, J.

Replication to the written statement filed on behalf of respondent No.2 in Court is taken on record.

The petitioner has approached this Court challenging acquisition of his land. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') were issued on 03.01.2007 and 02.01.2008, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 31.12.2009. He has also challenged order dated 29.08.2016 passed by the Secretary-cum-Director General, Department of Urban Estates, Haryana, whereby the claim made by the petitioner for lapsing of acquisition under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act'), was rejected.

The claim made by the petitioner is that the land/orchard adjoining to the land, of the petitioner has been released to the private persons/builders after notification under Section 4 of the Act was issued and some portion after announcement of award. He further submitted that the petitioner is still in possession of the acquired portion of land on which orchard

is existing. Raising plea of discrimination, quashing of acquisition has been prayed for.

On the other hand, learned counsel for the State submitted that after acquisition of land and announcement of award by the Collector, amount of compensation of the land, tubewell and fruit bearing trees was deposited with the Court of Additional District Judge, Karnal. The petitioner being not satisfied with the award of the Collector filed the objections under Section 18 of the Act. Even, the enhanced compensation awarded by the reference Court has also been deposited by the State with the Court as the petitioner failed to collect the same from the Collector. He further submitted that possession of the orchard was taken by the authorities and the same was put to auction on 25.11.2016 for one year. It is being auctioned from 20.11.2012 onwards. He further submitted that no land was released to any of the land owner or builder after announcement of award by the Collector.

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

In the case in hand, after issuance of notifications under Sections 4 and 6 of the Act, dated 03.01.2007 and 02.01.2008, respectively, award was announced by the Collector on 31.12.2009. As the petitioner had not received the compensation for the land, tubewell and orchard, the same was deposited with the Court. The petitioner did not raise any grievance regarding acquisition, raising plea of discrimination when the land in question was acquired. He sought to raise the issue by filing writ petitions more than five years after the announcement of award. He firstly filed CWP No.8123 of 2014 raising the plea that the acquisition lapsed in view of Section 24(2) of the 2013 Act, and the same was disposed of on 01.05.2014 with a direction to the authorities to decide the representation made by the petitioner, which was decided vide impugned order dated 29.08.2016 rejecting the claim as Section

24(2) of the 2013 Act was not applicable in the case of the petitioner. Award announced by the Collector on 31.12.2009 was not more than 5 years prior to the enactment of the 2013 Act as on 01.01.2014. It has further been noticed in the order passed by the Secretary-cum-Director General, Department of Urban Estates, Haryana, that the land was in possession of HUDA and the orchard was being given on lease for the last 5-6 years. Thereafter the petitioner filed CWP No.24487 of 2014 which was withdrawn on 03.12.2015 and CWP No.20306 of 2016 which was withdrawn on 19.10.2016. The stand of learned counsel for the petitioner was that the claims in those writ petitions were against the builder and acquisition was not challenged.

The facts, which emerge in the case in hand, are that after award was announced by the Collector on 31.12.2009, amount of compensation for the land, orchard and the tubewell was deposited by the State in Court as the petitioner did not collect the same. For the first time, plea of discrimination was sought to be taken by filing the writ petition more than 6 years after the award was announced by the Collector and the possession of the land had already been taken by the State, which is highly belated.

For the reasons mentioned above, we do not find any reason to interfere in the present petition and the same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

August 29, 2017
mohan

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No