

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 22044 of 2014 (O&M)
Date of decision: 18.12.2017

M/s Havens Properties Pvt. Ltd.

.. Petitioner

v.

State of Haryana and others

.. Respondents

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

Present: Mr. Lalit Singla, Advocate for the petitioner.

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

..

Rajesh Bindal J.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban
Estate, Gurugram dated 4.12.2017 filed in court is taken on record.

The petitioner has approached this court claiming that the
acquisition 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
neither possession of the acquired land has been taken nor the compensation
thereof has been paid.

Learned counsel for the petitioner submitted that notifications
for acquisition of the said land under Sections 4 and 6 of the Land
Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 24.8.2000
and 22.8.2001, respectively. Award was announced by the Land Acquisition
Collector on 21.7.2003.

He further submitted that for 32 kanals of land owned by the

petitioner, neither any compensation has been paid nor possession thereof has been taken. Construction was existing on major portion thereof. It was further submitted that adjoining to the land of the petitioner, there is no other portion of acquired land.

Learned counsel for the State does not dispute the fact that compensation for the acquired land has not been paid to the petitioner and the same is lying with the Land Acquisition Collector. He further submitted that possession of acquired land was taken vide Rapat No. 738 dated 21.7.2003 and on part of the land of the petitioner, road has already been constructed. Some portion adjoining thereof is required for green belt and service road. It is not disputed that for the land adjoining to the land of the petitioner, licence was granted to the private developer.

Learned counsel for the petitioner submitted that the petitioner does not have any objection to the acquisition of land required by the State for construction of road, service road and green belt, however, the acquisition qua the other portion of land has lapsed on account of non-payment of compensation. The petitioner be paid the amount of compensation for the land, which has finally been acquired.

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 5 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.

As consented by learned counsel for the parties, the State shall

be entitled to retain possession of the portion of the land on which road, service road and green belt have already been constructed or to be constructed, however, subject to payment of compensation therefor.

For the reasons mentioned above, in our opinion, one of the ingredients, namely, non-payment of compensation as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land except the portion of land required for construction of road, service road or green belt, has lapsed. The State shall be entitled to retain possession of portion of the land already utilised or required, subject to payment of compensation therefor. The area will be demarcated by the authorities on 8.2.2018 after informing the petitioner.

The State shall also be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowner 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 petitioner 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.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

18.12.2017

mk

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

