

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

CWP No. 21135 of 2016 (O&M)

Date of decision: 5.12.2017

Rajesh Kumar

.. Petitioner

VS

State of Haryana and others

.. Respondents

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

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Rozer Kumar Aggarwal, Advocate, for the petitioner.

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 4.12.2017, filed in Court, is taken on record.

The petitioner has approached this Court claiming that his father, namely Lal Chand, was owner of half share out of 2 bighas 12 biswas, out of which 1 biswa was released, being constructed area. At the back of this constructed area, there is continued constructed area measuring 40"X42". The prayer has been made that acquisition of remaining land 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 possession thereof has not been taken.

Learned counsel for the petitioner submitted that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), were issued on 22.3.1990 and 19.3.1991, respectively. Award was announced by the Land Acquisition Collector on 16.3.1993. The acquired land has not been utilised though more than 27 years have passed. He further submitted that the acquired land is situated adjoining to the village abadi. It was further submitted that the petitioner will return the compensation along with interest in case the land is released from acquisition.

Learned counsel for the State fairly did not dispute the fact that construction on the remaining acquired land owned by the petitioner was existing prior to the issuance of notification under Section 4 of the 1894 Act and it is adjoining to the village abadi. The possession of the petitioner is also not disputed. However, he submitted that the amount of compensation has already been paid to the petitioner. Even the enhanced amount of compensation is lying with the learned Reference Court. The State has already released 1 biswa of land.

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 construction was existing on the acquired land prior to the issuance of

notification under Section 4 of the 1894 Act and the petitioner is still in possession of the constructed portion. The adjoining constructed portion measuring 1 biswa was released earlier.

In view of our aforesaid discussions, as one of the ingredients laid down in Section 24(2) of the 2013 Act has been satisfied, acquisition of land in question has lapsed. However, as the petitioner has already received compensation for the land, he will return the same to the State within three months from the date of receipt of copy of the order along with interest as per policy of HUDA. The State shall be at liberty to withdraw the amount lying deposited with the learned Reference Court.

However, the State shall 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

5.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable	Yes/No

104

CM No. 1194-CWP of 2018 in CWP No. 21135 of 2016

Rajesh Kumar vs State of Haryana and others

Present Mr. Pawan Kumar, Senior Advocate with
Mr. Vipin Kumar, Advocate, for the applicant.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Prayer in the application is for correction of typographical error in para 2 at page 1 of the order dated 5.12.2017, where constructed area was mentioned as 40"X42". Because of wrong use of 'sign', the area mentioned is 40 inches into 42 inches, whereas it is 40 feet X 42 feet.

Learned counsel for the State does not dispute that there is error in the order to that extent.

Civil Misc. is allowed. The area as mentioned at page 1 in para 2 of the order dated 5.12.2017 shall be read as 40 feet X 42 feet.

Copy of the order shall be supplied along with copy of the order dated 5.12.2017 and uploaded on website also along with that order.

(Rajesh Bindal)
Judge

16.3.2018
vs

(Gurvinder Singh Gill)
Judge