

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

CWP No. 25529 of 2016 (O&M)

Date of decision: 20.12.2017

Chander Bhan and others

.. Petitioners

VS

State of Haryana and others

.. Respondents

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

Present: Mr. Rajiv Sharma, Advocate, for the petitioners.

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

Rajesh Bindal, J.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban Estate, Gurugram, dated 20.12.2017, 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 20.4.1990 and 18.4.1991, 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 23.3.1993. Construction is existing on the acquired land. In fact, part of the land adjoining to the land owned by the petitioners was released from acquisition after accepting objections under Section 5-A of the 1894 Act. Acquired portion is scattered which cannot be properly planned. Construction is existing thereon.

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. The petitioners own very small portion of land in a joint khewat.

Existence of construction presently at the spot has not been denied. Further the fact that in the same area, certain portions of land were released after accepting objections under Section 5-A of the 1894 Act is not denied. However, he submitted that part of the acquired land is falling within the alignment of 30 meters wide sector road, which could not be completed.

Learned counsel for the petitioners submitted that the petitioners do not have any objection to the acquisition of land which comes in the alignment of 30 meters wide sector road. They may be paid compensation therefor. If any construction is existing on that land, they will remove the same, however, the acquisition for the rest of the land has lapsed.

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.

As the facts have emerged in the present case, the petitioners are in possession of the land and compensation has not been paid to them,

hence, acquisition thereof will lapse under Section 24(2) of the 2013 Act.

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 road, however, subject to payment of compensation therefor. The petitioners, if required, will remove constructed portion which comes in the alignment of 30 meters wide sector road.

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 has lapsed, except the portion of the land which is coming in the road alignment. The State shall be entitled to take possession thereof subject to payment of compensation therefor. The area will be demarcated by the authorities on 8.2.2018 after informing the petitioners.

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 accordingly.

(Rajesh Bindal)
Judge

20.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No