

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

CWP No. 3362 of 2016 (O&M)

Date of decision : 11.12.2017

Damyanti

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Raj Kumar Garg, Advocate, for the petitioner.

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

Rajesh Bindal, J.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban
Estate, Gurugram, Haryana dated 8.12.2017 filed in Court is taken on
record.

The petitioner has filed the present petition claiming that 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'), the acquisition has lapsed, as the petitioner
has neither been paid compensation for the acquired land nor possession
thereof has been taken from her. Notifications under Sections 4 and 6 of the
Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on
30.10.1992 and 28.10.1993, respectively. Award was announced by the
Land Acquisition Collector (for short, 'the Collector') on 26.10.1995.

Learned counsel for the petitioner submitted that though

compensation for the acquired land has been paid to the petitioner but possession thereof has not been taken from her. It was submitted that petitioner is the owner of 300 square yards of land, on which construction is existing.

Learned counsel for the State did not dispute the fact that the petitioner is the owner of 300 square yards of land. He fairly did not dispute the fact that the petitioner is still in possession thereof. Learned counsel for the State further submitted that some part of the land of the petitioner is coming in alignment of road. For that purpose, about 100 square yards of land is required. The State may be permitted to retain that portion of area, so that sector roads are properly planned.

Learned counsel for the petitioner fairly submitted that the petitioner has no objection to State's taking portion of land, which may be required for construction of road, however, subject to payment of compensation therefor.

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 physical possession thereof has not been taken.

As the petitioner is admittedly in possession of the acquired land though compensation thereof has been received, the acquisition thereof will lapse under Section 24(2) of the 2013 Act. However, as consented by

both the parties, the State shall be entitled to take possession of land required for construction of road.

For the reasons mentioned above, in our opinion, one of the ingredient as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land except the portion which is not coming in the planning of road, has lapsed. The State shall be entitled to take possession of portion of land required for construction of road subject to payment of compensation therefor. The area will be demarcated on 8.2.2018 after intimation to the petitioner. The petitioner will have to return compensation taken by her for the part of the land, acquisition of which has lapsed alongwith interest @ 15% per annum. The amount will be calculated and informed to the petitioner by the respondents within one month after the area is demarcated, to enable the petitioner to pay the same within two months.

Ordered accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

11.12.2017
sharmila

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