

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

CWP No.4597 of 2015(O&M)

Date of Decision:-July 11, 2017

M/s RKKR Foundation

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present : Mr. R. Kartikeya, Advocate, for the petitioner.

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

Mr. Anil K. Rana, Advocate,

Rajesh Bindal J:

The petitioner approached this Court seeking a declaration that acquisition proceedings initiated vide notification dated 10.01.2011 (Annexure P-4) under Section 4 of the Land Acquisition Act, 1894 (for short “the 1894 Act”) has lapsed in view 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”). Further prayer has been made for setting aside the orders dated 25.10.2013 (Annexure P-16) and dated 13.05.2014 (Annexure P-19) vide which the appeal filed by the petitioner against rejection of his application for grant of change of land use was dismissed.

It is not in dispute that after issuance of notification under Section

4 of the 1894 Act, notification under Section 6 of the said Act has not been issued till date. It is in view of the interim order passed in CWP No.18940 of 2014, where the issue under consideration is as to whether fertile land should be acquired for development of industries.

As the notification under Section 4 of the 1894 Act itself was issued on 10.01.2011, the provisions of Section 24(2) of the 2013 Act cannot be invoked.

As regards rejection of application of the petitioner for grant of change of land use is concerned, the same has been declined *inter alia* on the grounds that the land is under acquisition and further it is located on a passage which is not wide enough to take care of increased traffic with construction of the school. As the issue regarding acquisition of land is still pending consideration, the prayer of the petitioner for grant of change of land use certificate would be at this stage an exercise of futility.

Learned counsel for the petitioner submitted that he may be permitted to withdraw the present petition at this stage, however, with liberty to challenge the orders passed by the authorities rejecting his prayer for grant of change of land use certificate, if finally the land is not acquired. Learned counsel for the State does not have any objection to the prayer of the petitioner being granted.

After hearing learned counsel for the parties, the prayer of the petitioner for grant of permission to withdraw the writ petition with liberty to challenge the orders dated 25.10.2013 (P-16) and dated 13.05.2014 (Annexure P-19), rejecting his prayer for grant of change of land use certificate, in case the land in question is not finally acquired is allowed. In case, the writ petition is filed within reasonable time after the issue regarding acquisition is finally

decided the delay from the date of passing of the orders will not come in the way for consideration of the issue on merits.

(RAJESH BINDAL)
JUDGE

July 11, 2017
pankaj

(GURVINDER SINGH GILL)
JUDGE

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