

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

CWP No. 6230 of 2016 (O&M)

Date of decision: 30.11.2017

Hari Parkash

.. Petitioner

VS

State of Haryana and others

.. Respondents

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

Present: Mr. Arun Gupta, Advocate for
Mr. Vibhav Jain, 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.

Status report by way of affidavit of Braham Parkash, Land
Acquisition Collector, Urban Estate, Rohtak, dated 29.11.2017, filed in
Court is taken on record.

The petitioner has approached this Court claiming that
acquisition of land in question 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 brevity, 'the 2013 Act'), as
neither the 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 Section 4 and 6 of the Land

Acquisition Act, 1894 (for brevity 'the 1894 Act'), were issued on 17.11.2005 and 7.2.2006, respectively. Award was announced by the Land Acquisition Collector on 2.3.2006. He further submitted that the petitioner had purchased 3 kanals 17 marlas of land, vide sale-deed dated 28.4.1987. It is situated in the revenue estate of village Badh Khalsa, Tehsil and District Sonapat. He had constructed industrial unit which is being run in the name and style of M/s Hari Textiles. It was registered as a Small Scale Industrial Unit under Rural Industrial Scheme in the year 1987. Term loan of ₹ 1,65,000/- and working capital loan of ₹ 1 lakh was sanctioned by the Central Bank of India, Model Town, Sonapat. Once the petitioner is already using the land for running an industry, it would not be appropriate to uproot him. As neither the compensation for the acquired land has been paid nor possession of the land has been taken, the acquisition has lapsed.

Learned counsel for the State fairly did not dispute the fact that small scale unit was existing on the acquired land prior to the issuance of notification under Section 4 of the 1894 Act. The award was announced by the Land Acquisition Collector on 2.3.2006, however, the compensation has not been received by the petitioner.

After hearing learned counsel for the parties, we find merit in the present writ petition. Admittedly, on the plot owned by the petitioner, which was acquired, there was construction existing prior to the issuance of notification under Section 4 of the 1894 Act. The same was being used by the petitioner for industrial purpose. He is running small scale industry in the name and style of M/s Hari Textiles. The petitioner has not been paid the compensation for the acquired land.

For the reasons mentioned above, the acquisition of land measuring 3 kanals 17 marlas owned by the petitioner is quashed.

The writ petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

30.11.2017
vs

(Gurvinder Singh Gill)
Judge

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