

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

CWP No. 9617 of 2014 (O&M)

Date of decision : 13.11.2017

Taqdir Singh and another

.. Petitioners

versus

Union of India and others

.. Respondents

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

Present: Mr. Harkesh Manuja, Advocate, for the petitioners.

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

Mr. Akashdeep Singh, Advocate, for respondent no. 2.

Rajesh Bindal, J.

The present writ petition has been filed by the petitioners seeking release of their land from acquisition for which notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short “the 1894 Act”), were issued on 17.4.2002 and 10.4.2003, respectively. The award was announced by the Land Acquisition Collector (for short, 'the Collector') on 25.6.2004. The petitioners claimed that they are owners of joint khewat measuring 51 kanal 3 marlas of land. While challenging the acquisition, learned counsel for the petitioners raised plea of discrimination claiming that a large chunk of land, where no construction existed was released from acquisition, even after award was announced by the Collector.

Additional ground raised by learned counsel for the petitioners is that acquisition of land in question 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 neither the possession of the acquired land has been taken nor the compensation thereof has been paid.

In some of the cases, the writ petitions filed by the landowners were allowed by this Court and acquisition was quashed on the ground of discrimination in CWP No. 2308 of 2004 - Reshma Footwear (P) Limited vs State of Haryana and others, decided on 21.6.2010. The judgment of this Court was upheld by Hon'ble the Supreme Court, whereby Special Leave to Appeal (Civil) 11864 of 2012 – State of Haryana and others vs Lehri Singh and others, was dismissed vide order dated 29.8.2012. Relying upon the aforesaid judgment, prayer has been made that the acquisition qua the land of the petitioners be set aside.

In the earlier round of litigation, Kartar Singh father of the petitioners, who is owner to the extent of 1/3rd share had filed CWP No. 13229 of 2004, which was dismissed along with bunch of writ petitions vide order dated 7.5.2010 passed in CWP No. 10396 of 2004 Prahlad Singh and others vs Union of India and others opining that the possession of the land having been taken and the compensation paid, the acquisition cannot be challenged. The judgment of this court was challenged before Hon'ble the Supreme Court by filing Civil Appeal No. 6202 of 2011 Vidya Devi and another vs State of Haryana and others, where the same was allowed along with other appeals vide order dated 29.7.2013 and the matters were remitted back in terms of judgment of Hon'ble the Supreme Court in Prahlad Singh

and others vs Union of India and others (2011) 5 Supreme Court Cases 386, to this court on the issue that on record it could not be established that the possession of the land had been taken.

Thereafter, the matters were reconsidered by this court and the writ petitions were allowed vide order dated 21.4.2014 passed in Civil Writ Petition No. 17412 of 2004 – Girdhari Lal and others vs Union of India and others and the acquisition was quashed.

In the present case, learned counsel for the petitioners submitted that the possession of the land was not taken and only *rapat roznamcha* had been entered, which will not establish the factum of taking of possession. The petitioners are still continuing in possession of the land. In fact, the acquisition for 1/3rd of the land in the joint khewat has already been set aside.

Learned counsel for the State submitted that the compensation for the acquired land has already been received by the petitioners. Immediately thereafter even the possession of the land was also taken. Mutation has also been entered in the name of the department concerned on 17.7.2010, to which no issue was ever raised by the petitioners. The land at the time of acquisition and even now is lying vacant. Even in the *khasra girdawari* relied upon by the petitioners, substantial part of the joint khewat is shown to be lying vacant, hence, the petitioners cannot claim that they are in possession of any portion of land. He further submitted that for the land which is lying vacant, the action of the State authorities in preparation of *panchnama* is to be treated sufficient to constitute taking over of possession. In the present case, the same is available.

Heard learned counsel for the parties and perused the paper book.

The undisputed facts on record are that notifications under Sections 4 and 6 of the 1894 Act were issued on 17.4.2002 and 10.4.2003, respectively. No objections were filed under Section 5-A of the 1894 Act. Award was announced by the Collector on 25.6.2004. The petitioners had received the amount of compensation from the Collector, hence, they were satisfied with the acquisition of land. Some of the landowners feeling aggrieved filed a bunch of petitions in this Court raising the plea of discrimination. The writ petitions are allowed vide judgment of this Court in Reshma Footwear's case (supra), which was delivered on 21.6.2010. Special Leave Petition filed by the State was dismissed on 29.8.2012. The present petition was filed two years thereafter raising the same plea.

As far as possession of the land is concerned, Hon'ble the Supreme Court in Prahlad Singh's case (supra) opined that if the acquired land is vacant, the act of the State authority concerned to go to the spot and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession. In the case in hand, such entry has been made in the *rapat rojnamcha* vide Rapat No. 484 dated 25.6.2004. Further the *khasra girdawari* provides by the petitioners does not come to their rescue. The total land in the joint khewat is 51 kanals 3 marlas and major portion thereof was lying vacant. Hence, it cannot be claimed that the petitioners are in possession of the acquired land. The compensation for the acquired land has, admittedly, been received by the petitioners.

In our view, the judgments of this Court or Hon'ble the Supreme Court do not give any fresh cause of action to any party to

challenge the acquisition, where award was passed by the Collector way back on 25.6.2004, specially raising the plea of discrimination after receiving compensation for the acquired land.

For the reasons mentioned above, the present writ petition is dismissed.

(Rajesh Bindal)
Judge

13.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No