

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

CWP No. 29056 of 2017 (O&M)

Date of decision: 20.12.2017

Mahavir Prasad and others

.. Petitioners

VS

State of Haryana and others

.. Respondents

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

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

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

Rajesh Bindal, J.

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 26.8.2003 and 10.8.2004, 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 12.12.2006. Out of the total 34 marlas of land owned by the petitioners, constructed area to the extent of 3 marlas located at two different places was released after accepting objections under Section 5-A of the 1894 Act. Remaining 31 marlas of land was acquired. Out of the aforesaid land, about 10 marlas of land has been utilized for construction of road. All around the land, on three sides, the land was not acquired as license was granted to the private builder for development as residential and

commercial area. He further submitted that part of the land on which road has already been constructed, the State be directed to pay compensation to the petitioners.

Learned counsel for the State did not dispute the fact that the compensation for the acquired land in total measuring 31 marlas of land has not been taken by the petitioners and further that adjoining to the land of the petitioners, there is no other land acquired by State. It is isolated plot of 34 marlas, out of which 3 marlas land located at different places was released from acquisition under Section 5-A of the 1894 Act. Some part of land has already been utilized for construction of road. It is further not disputed that all around the land of the petitioners, private developer developed the area.

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 stated by learned counsel for the parties, the road has already been constructed on about 10 marlas of land. Acquisition of land to that extent is not being challenged by the petitioners. The same is upheld subject to payment of compensation for the same. It is admitted case of the parties that all around the land of the petitioners, private

developer developed the area after license was granted and no other area acquired by the State is adjoining to the land of the petitioners. Compensation has not been paid to the petitioners and further they are still in possession thereof. In fact, small portion cannot possibly be developed.

For the reasons mentioned above, in our opinion, the ingredients as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land except the portion which has been utilized for construction of road, has lapsed.

However, the State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners 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 petitioners 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