

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

CWP No. 958 of 2015 (O&M)

Date of decision : 6.11.2017

Rajesh Kumar and others

.. Petitioners

versus

State of Haryana and another

.. Respondents

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

Present: Mr. Vikram Singh and Mr. Hardeep Singh Dhillon, Advocates,
 for the petitioners.

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

Rajesh Bindal, J.

Claim made by 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 the possession of the house constructed on the acquired land has not been taken though compensation has been received.

Learned counsel for the petitioners submitted that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short “the 1894 Act”), were issued on 24.8.2000 and 22.8.2001, respectively. The Land Acquisition Collector vide award no. 9 dated 21.7.2003 announced the compensation for the acquired land. The petitioners had constructed residential house on the acquired land and they are in actual physical possession of the same. It is claimed that the construction on the acquired

land was raised prior to the issuance of notification under Section 4 of the 1894 Act. It is not disputed that the petitioners had received the compensation as determined by the Collector for the acquired land and for the superstructure existing thereon. They have also received enhanced compensation.

Learned counsel for the State submitted that initially entire land owned by the petitioners including the constructed portion thereon was acquired and even the award was announced, however, later on area measuring 232 square yards owned by petitioner nos.1 and 2 and 242 square yards owned by petitioner nos. 3 to 5 was released from the acquisition in the year 2009. It was proportionate to the area constructed. The petitioners felt satisfied and never raised any issue that there was any further construction existing on the plot owned by them, which deserved to be considered for release. The other portion of land was lying vacant. There was some dilapidated boundary wall thereon for which compensation was duly paid to the petitioners. They had also filed objections under Section 18 of the 1894 Act and have also received the enhanced compensation.

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 possession thereof had not been taken.

No doubt, there was some construction existing on the acquired land prior to the issuance of notification under Section 4 of the 1894 Act.

This was so claimed by petitioner nos. 1 to 4. The award was announced by the Collector on 21.7.2003, however, subsequent thereto area measuring 232 square yards was released in favour of petitioner nos.1 and 2, and 242 square yards land was released in favour of petitioner nos. 3 to 5. It was keeping in view the policy of the State, in terms of that open area proportionate to the constructed area was also released. The needful was done way back in the year 2009. The petitioners being satisfied did not raise any issue as there was no further construction which was inhabited. Only dilapidated boundary wall was there for which the petitioners have already taken the compensation. Even as per the photographs attached by the petitioners along with the writ petition, the constructed area is not more than what has already been released from the acquisition. Apparently some new construction has been raised, which would be totally unauthorised, especially in view of the facts and circumstances of the case where the compensation including even the enhanced compensation has already been received by the petitioners and the constructed area on the acquired land was ordered to be released earlier.

For the reasons mentioned above, we do not find any merit in the present writ petition. The same is dismissed.

(Rajesh Bindal)
Judge

6.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No