

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

CWP No. 9673 of 2015 (O&M)

Date of decision : 4.12.2017

Mahabir Singh

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Sandeep Sharma, Advocate, for the petitioner.

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

Ms. Neha Rathi, Advocate for
Mr. Amar Vivek, Advocate, for HSIIDC.

Rajesh Bindal, J.

The petitioner has filed the present petition claiming that 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'), the acquisition has lapsed, as possession of the acquired land has not been taken from him. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 10.9.1992 and 3.9.1993, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 25.8.1995.

Learned counsel for the petitioner submitted that though he has received compensation for the acquired land but possession thereof has not been taken from him. It was submitted that the petitioner is the owner of the

acquired land to the extent of 7 kanals. It was further submitted that petitioner is still in physical possession of the land in question. It was argued that the land in dispute falls in village abadi and there is no access to the land. Area all around had not been acquired. The land in dispute is of no use to the Department. He further submitted that the acquired land has been developed but the land in question has not been developed, as the same falls in abadi area.

Learned counsel for the State did not dispute the fact that the petitioner was the owner to the extent of 7 kanals of land at the time of issuance of notification under Section 4 of the 1894 Act. The fact that the petitioner is still in physical possession of the acquired land is also not disputed by the State. He submitted that the land in dispute was lying vacant at the time of acquisition and still now. The acquired land has been been developed, but the area in question has not been developed. The petitioner has already taken the 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 has not been taken.

In the case in hand, it is admitted position on record that the petitioner has received compensation for the acquired land. The area has been developed but the land of the petitioner has not been developed for the

reason that the area falls within village abadi and there is no access to the land. Further the land in question is of no use to the Department. The same falls in between the abadi area which admittedly was never acquired. It is still in possession of the petitioner.

For the reasons mentioned above, in our opinion, one of the condition as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land in question qua land of the petitioner has lapsed. However, as the petitioner has already been received compensation for the acquired land, the same will have to be returned by the petitioner to the State within three months from the date of receipt of copy of this order along with interest at the rate on which interest is paid under the 1894 Act.

The writ petition is allowed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

4.12.2017
sharmila

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