

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

CWP No. 935 of 2016 (O&M)

Date of decision : 4.12.2017

Smt. Bhana (deceased) through LRs

.. Petitioners

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Sanjay Verma, Advocate, for the petitioners.

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

Mr. Anil K. Rana, Advocate for
Mr. Lokesh Sinhal, Advocate, for the HSIIDC.

Rajesh Bindal, J.

The petitioners have 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 the petitioners have neither received compensation for the acquired land nor possession thereof has been taken. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 25.11.2005 and 24.11.2006, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 24.2.2007.

Learned counsel for the petitioners submitted that neither compensation for the acquired land has been received by the petitioners nor

possession thereof has been taken. It was submitted that the petitioners are the owners of constructed residential property measuring 4 kanals 16 marlas. Construction was raised prior to issuance of notification under Section 4 of the 1894 Act. He further submitted that initially major part of the land was not acquired. It was further submitted that there is no development in the area till date. The petitioners are still in physical possession of the land in question.

Learned counsel for the State submitted that at the time of issuance of notification under Section 4 of the 1894 Act the land was lying vacant however, now some Jhuggies have been constructed. As there was dispute regarding apportionment of compensation, the State deposited the amount of compensation with the Court on 9.6.2008. Learned counsel for the State did not dispute the fact that there is no development in the area. Acquisition was for development as residential Sector by HSIIDC.

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 petitioners are the owners to the extent of 4 kanals 16 marlas of land and some Jhuggies were existing thereon. As there was dispute regarding apportionment of compensation, the State deposited the amount of

compensation with the Court on 9.6.2008. The petitioners are in possession of the land as construction has been raised thereon.

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 has lapsed. However, the State shall be at liberty to withdraw the amount of compensation deposited with the Court in the case of the petitioners.

The State shall also 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 is allowed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

4.12.2017
sharmila

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