

C.W.P No. 3882 of 2017 (O&M)
Date of Decision : 28.02.2017

versus

**CORAM :HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MRS. JUSTICE SNEH PRASHAR**

RAJESH BINDAL, J.

In the case in hand, the notification under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act') was issued on 11.08.2004, which was followed by notification under Section 6 of 1894 Act, dated 09.08.2005. The award was announced by the Land Acquisition Collector (for short 'the Collector') on 08.12.2006. It is not in dispute that the petitioners had received the amount of compensation assessed by the

Collector. Civil Writ Petition No.15283 of 2014 was filed in this Court raising the issue that though amount of compensation has been received by the petitioners, but the physical possession of the land is still with the petitioners. Hence, in view of the provisions of Section 24(2) of the Act, the acquisition lapsed. The matter was considered by the Committee. The only dispute which remained was whether the possession was still with the petitioners or had been taken by the State? The finding recorded by the Committee on that count is that possession of the petitioners was unauthorized and was of recent origin and not a continuous possession and due to status quo order granted by the Court, action could not be taken against the encroacher on the acquired land. The land is gair mumkin. Hence, the petitioners cannot claim that they are in possession of the land, merely because it has yet not been utilised by the department, which had acquired it.

The petitioners also sought to raise the issue regarding non-affording an opportunity of hearing stating that vide letter dated 03.08.2015, the authorities were asked to serve registered post notice for personal hearing and none was served thereafter. However, a perusal of the impugned order shows that on the date of hearing, one of the petitioners, namely, Satish Kumar was present. All the petitioners are brothers and living in the same village, if not in the same house, as is evident from the memo of parties.

As the petitioners do not satisfy the conditions laid down under Section 24(2) of the Act, we do not find that acquisition of the land lapsed.

There is no merit in the case.

The petition stands dismissed.

(RAJESH BINDAL)
JUDGE

(SNEH PRASHAR)
JUDGE

February 28, 2017
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Whether speaking/reasoned – Yes
Whether reportable – Yes/No