IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4260 of 2017 (O&M)
Date of decision : 13.11.2017

Joginder 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. Vikram Singh, Advocate and
Mr. Hardeep Singh Dhillon, 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.

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 the petitioner has neither been paid compensation for the acquired land nor possession of the land has been taken from him. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 23.2.1989 and 22.2.1990, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 21.2.1992.

Learned counsel for the petitioner submitted that neither compensation for the acquired land has been paid to the petitioner nor possession thereof has been taken from him. The petitioner had set up his industrial unit much before the acquisition. While accepting objections filed under Section 5-A of the 1894 Act, part of the land owned by the petitioner

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was released from acquisition. Otherwise the portion of land, which was acquired, was also forming part of the factory premises. It was surrounded by boundary wall and possession thereof was not taken by the respondents till date. The acquisition being quite old though the entire area as such has been developed but the area in question has not even been planned for development.

On the other hand, learned counsel for the State did not dispute the fact that the compensation for the acquired land has not been paid to the petitioner. He further submitted that part of the land, where factory shed had been constructed was released from acquisition. Possession of the other portion of land was taken. Mutation of ownership was also entered in the name of HUDA on 6.8.2015. It was not disputed that there is a running industrial unit existing on the spot. He further did not dispute the fact that the land has yet not been planned for development.

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 compensation for the acquired has not been paid to the petitioner. As regards possession of the land is concerned, the submission of the petitioner is that there is running industrial unit at the spot. The fact that the petitioner was running industrial unit much before the acquisition of land is

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established from the fact that part of the land initially sought to be acquired, was released from acquisition. The petitioner had claimed that the entire acquired land is in his possession as it is surrounded by boundary wall being part of his industrial unit. The State has not been able to produce any material on record to show that any development activity has been carried out on the portion of land, which is subject matter of dispute in the present petition even though acquisition was carried out more than 25 years back and development on the other potion of the acquired land is otherwise complete.

For the reasons mentioned above, in our opinion, ingredients as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land in question has lapsed.

The writ petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

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

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