

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8537 of 2017 (O&M)
Date of decision: 18.12.2017

Kamla and another

.. Petitioners

v.

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vikram Singh, Advocate for the petitioners.

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

...

Rajesh Bindal J.

Affidavit of Satish Yadav, Land Acquisition Collector, Urban
Estate, Gurugram dated 5.12.2017 filed in court is taken on record.

The petitioners have approached this court claiming that the
acquisition 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
neither possession of the acquired land has been taken nor the compensation
thereof has been paid.

Learned counsel for the petitioners submitted that notifications
for acquisition of the said land under Sections 4 and 6 of the Land
Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 27.8.1987

and 25.8.1988, respectively. Award was announced by the Land Acquisition

Collector on 16.3.1989.

He further submitted that compensation for the acquired land measuring 200 square yards owned by the petitioners has not been paid to them. They are in possession ever since notification under Section 4 of the 1894 Act was issued as they had raised construction of their house thereon.

Learned counsel for the State, on instructions from Vivek Kalia, Estate Officer-II, Gurugram submitted that compensation for the acquired land has not been taken by the petitioners. There was construction existing prior to the issuance of notification under Section 4 of the 1894 Act, however, he submitted that as a corner of the constructed portion is coming in the alignment of road, the authorities may have to straighten the road by taking small portion of the house. In case, the petitioners agree for allowing the authorities to straighten the road by taking small portion of the house, the petitioners will be compensated qua the area of land either in front or behind the plot owned by them. They will also try to give proper shape to the plot, if possible.

Learned counsel for the petitioners submitted that the suggestions made by learned counsel for the State are acceptable. The petitioners will not raise any objection to demolition of part of the constructed area, which is coming in alignment of the road, in case they are given possession of equivalent area adjoining to the plot.

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 5 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 physical possession thereof has not been taken.

However, as consented by learned counsel for the parties, the State shall be entitled to take possession of the portion of the land, which is coming in the road alignment, however, subject to the condition that the petitioners shall be given possession of equivalent area adjoining to the plot. The petitioner, if required, will demolish the corner portion of house for the purpose. The State shall also be entitled to give proper shape to the plot.

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 except the portion coming in the road alignment, has lapsed. The State shall be entitled to take possession of portion of land required for alignment of road giving equivalent area adjoining to the plot of the petitioners. The area will be demarcated by the authorities on 8.2.2018 after informing the petitioners.

The writ petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

18.12.2017
mk

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