

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.19102 of 2015

Date of Decision: January 18, 2018

Surinder Kumar

.....Petitioner

versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.**

**HON'BLE MR.JUSTICE ANIL KSHETARPAL.**

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

Mr.Ankur Mittal, Additional AG, Haryana.

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**Surya Kant, J.** (Oral)

The petitioner seeks a declaration that the acquisition of his land measuring 500 square yards comprising khasra No.27/2/2, 9/2 and 26/1 situated within the revenue estate of Taraf Afgan, Panipat, for which Award was passed on 25.02.1999, has lapsed under Section 24(2) of the the Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013.

It is an admitted fact that the petitioner has constructed a residential house of 'A' class construction on the site and photographs of the same have been placed on record. The factum of house at the site is not disputed by the respondents also. It is also a matter of record that the total acquired land of the petitioner's family was 13 kanal 4 marla. They earlier challenged the acquisition but their writ petition was dismissed by this Court. The brothers of the petitioner filed Civil Appeal No.5806 of 2006 (Ashok Kumar (dead) and others versus State of Haryana and others) and their appeal was allowed vide order dated 24.10.2013 and acquisition qua their share was quashed by the Hon'ble Supreme Court holdings as follows:-

produced any document to show that possession of the acquired land had been taken from the appellants who, as per the report of the Additional Director, Urban Estate, Haryana, had raised construction before issue of notification under Section 4 of the Act. In the absence of such document, it must be held that the Division Bench of the High Court committed serious error by non-suiting the appellants on the ground that possession of the acquired land had already been taken. Learned counsel for the respondents also failed to explain as to how the declaration under Section 6 could be made by the State Government five months prior to the submission of the report by the Collector. Therefore, it must be held that the acquisition proceedings were vitiated due to patent violation of Section 5A(2) read with Section 6 of the Act.

We also find substance in the argument of the learned senior counsel that that acquisition proceedings will be deemed to have elapsed because of the failure of the competent authority to pass an award within two years. Admittedly, the declaration under Section 6 was issued on 01.05.1989 and the supplementary award in respect of the appellants' land was passed on 28.12.1989. The period during which injunction granted by the trial Court operated has to be excluded while computing two years within which the award was required to be passed in terms of the mandate of Section 11-A but even if that period of excluded, the award dated 28.12.1999 cannot be treated to have passed within two years.....”

Since the petitioner was not party to those proceedings, the respondents did not release his house, prompting him to file the instant writ petition.

Broadly admitted facts are that the petitioner neither received

compensation nor it has been deposited with the Reference Court under Section 31(1) of the Land Acquisition Act, 1894. Physical possession of the acquired property is admittedly with the petitioner as a residential house has been constructed. Still further, the acquisition qua land of petitioner's brother has been set-aside by the Hon'ble Supreme Court vide the above-cited decision. In this view of the matter, there can be no escape but to hold that the acquisition qua the house of the petitioner stands lapsed under Section 24(2) of the 2013 Act. However, regarding the vacant portion beyond the constructed area, the petitioner has no objection against utilization of a part of it, if so required for any public purpose.

The writ petition stands disposed of accordingly.

**(SURYA KANT)**  
**JUDGE**

**January 18, 2018**  
*mohinder*

**(ANIL KSHETARPAL)**  
**JUDGE**

|                                  |          |               |
|----------------------------------|----------|---------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes/No</b> |
| <b>Whether Reportable</b>        | <b>:</b> | <b>Yes/No</b> |