

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

1. CWP-62-2014
Date of Decision: January 29, 2018

Zile Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

2. CWP-17081-2014

Vijay Pal and another

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

3. CWP-23543-2015

Vinod Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

4. CWP-26855-2015

Rajinder Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

5. CWP-27452-2017

Subhash and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

6. CWP-28056-2017

Bhagwan Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CWP-62-2014

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7. **CWP-28060-2017**

Surat Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

8. **CWP-4000-2017**

Ram Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

9. **CWP-1193-2018**

Kamalbir

.....Petitioner

Versus

State of Haryana and others

.....Respondents

10. **CWP-1294-2018**

Om Parkash and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

11. **CWP-1459-2018**

Ram Niwas and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

and

12. **CWP-1651-2018**

Narbir and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR. JUSTICE SHEKHER DHAWAN

- | | | |
|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Rupinder Khosla, Sr.Advocate with
Ms.Ishrat Phulka, Advocate
Ms.Radhika Suri, Sr.Advocate with
Mr.M.S.Kanda, Advocate
Mr.Sandeep Sharma, Advocate
Mr.Aashish Chopra, Advocate with
Ms.Rupa Pathania, Advocate
Mr.Rajesh Lamba, Advocate and
Mr.Bhaskar Sharma, Advocate
for the petitioners.

Mr.Ankur Mittal, Addl.A.G.Haryana with
Mr.Manoj Dhankhar and Mr.Shivendra Swaroop, AAG,
Haryana.

.....

SURYA KANT, J.

Six separate affidavits filed by Land Acquisition Collector in CWP Nos.62-2014, 17081-2014, 27452-2017, 4000-2017, 1193-2018 and 1294-2018 alongwith site plan are taken on record.

[2] This order shall dispose of above captioned 12 writ petitions as the petitioners in all these petitions have sought common relief to declare the acquisition of their respective land/property carried out vide Notifications dated 27.11.2003 and 24.11.2004 issued by State of Haryana under Sections 4 & 6 of the Land Acquisition Act, 1894 (for brevity,'the 1894 Act') respectively followed by Award dated 22.11.2006 (Except in CWP No.17081 of 2014 in which the Award was passed on 17.08.2007) acquired for the public purpose of development of residential, commercial and institutional, Sector 48, Gurugram, to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act').

[3] Broadly admitted facts are that State of Haryana issued Notification dated 27.11.2003 under Section 4 of the 1894 Act proposing to acquire the land measuring 491.78 acres situated within the revenue estate of villages Tikri, Islampur, Badshapur and Fazilpur Jharsa, Tehsil and District Gurugram. On consideration of objections filed by the owners/interested persons under Section 5-A of the 1894 Act, 33.92 acres land was exempted, hence Notification dated 24.11.2004 under Section 6 of the 1894 Act was issued for the land measuring 457.86 acres only. Thereafter and before passing the Awards, the State Government released a big chunk of land measuring 218.80 acres in favour of a private builder(s), to whom licence/change of Land Use Certificate were granted. Subsequently, seven Awards were passed in respect of land measuring 232.72245 acres. It is also an admitted fact that even after passing the Awards, 68.42 acres land was again released in favour of private builder(s) to whom licence/CLU was also granted. In this manner the acquisition sustained qua land measuring 164.30 acres only.

[4] The petitioners in these twelve cases are amongst those whose lands are still under acquisition and are part of 164.30 acres land which is under acquisition.

[5] It would be useful at this stage to give brief description of the land/area of all the petitioners.

1.CWP No.62 of 2014: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.274(1-9-00), 276/2 (0-16-03), 275 (01-09-00) situated within the revenue estate of

village Islampur, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken. However according to the respondents, a part of the land is required for different sizes of plots, crech, park and 3 nos. of 12 mtr. wide road.

2.CWP-17081 of 2014: The claim of the petitioners in the instant writ petition pertains to Khasra No.5/2, Rectangle No.6 measuring 3 Bighas 5 Biswas of which petitioner No.2 is the owner whereas petitioner No.1 is lessee for a period of 99 years, situated within the revenue estate of village Tikri, Tehsil and District Gurugram, which was acquired vide the above mentioned Notifications/Award dated 17.08.2007. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of

the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

3.CWP-23543 of 2015: It may be mentioned here that a part of petitioners' land comprising khasra Nos.233(0-11-0) and 234(0-9-0) has been released on 05.01.2012 whereas Khasra No.304/3 Min.(0-3-0) has been released on 16.01.2008. Though it is admitted that petitioners have not received compensation qua their share of the land but it is averred that brother of petitioner Nos.4 to 7, namely, Narinder Kumar has received compensation qua his share on 19.12.2011. According to the respondents, a part of the acquired land of the petitioners is required for 30 Mtrs Green Belt whereas remaining land has been reserved for commercial Booths meant for settling oustees claim.

4.CWP No.26855 of 2015: The claim of the petitioners in the instant writ petition pertains to Khewat No.145/101, Khatoni No.183, Khasra No.10/7/3, Village Tikri, which was acquired vide the above mentioned Notification/Award. The land measuring 8 Bhigha 15 biswas and 14 biswasi was earlier

released but the remaining land having been included in the impugned acquisition, the instant writ petition has been filed. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

5.CWP No.4000 of 2017: Claim of the petitioner in the instant writ petition confines to Khasra No.25/2 measuring 5 biswas as his other khasra No.13/20/1/1, which was also acquired vide the above-said acquisition, has since been released on 17.12.2012. While the petitioner has averred that neither he consented to receive compensation amount nor the same has been deposited with the Reference Court in accordance with Section 31 of the 1894 Act, as regard to possession, the petitioner claims that he has constructed shops whereas according to the respondents the land under acquisition is a revenue *rasta* and the petitioner is in possession thereof as *Gair Morushi*.

6.CWP-27452 of 2017: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.307/1,4,2 (3500 sq.yard), 308/1 (3500 sq.yard) total area 7000 sq.yard situated within the revenue estate of village Islampur, which was acquired vide the above mentioned Notification/Award. A part of petitioners' land comprising Khasra No.307/4 was released though the released area has not yet demarcated. It is averred that a part of petitioners' land in Khasra Nos.307 min. and 308 min. falls in Green Belt. The petitioners maintain that for the rest of land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

7.CWP No.28056 of 2017: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.209/1/2 (0-8-0), 285/1 (0-2-0), 286/1 (0-2-0), 287 (1-4-0), 210 (3-1-0) total land 3.5 acre), situated within the revenue estate of village Islampur, which was acquired vide the above mentioned

Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

8.CWP No.28060 of 2017: The claim of the petitioners in the instant writ petition pertains to Khasra No.42//4 (1000 sq.yards) situated within the revenue estate of village Islampur, which was acquired vide the above mentioned Notification/Award. It is stated that some part of petitioners land was released though the released are has not yet demarcated. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute.

Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

9.CWP No.1193 of 2018: The claim of the petitioner in the instant writ petition pertains to Khasra No.27//17, 18, 23, 24, 26, 33//2, 3 area measuring 31K-04M to the extent of 41/336 share i.e. (3k-16m) and killa Nos.33//4, 5/1, 6/1, 7/1 area measuring 18K-01M to the extent of 5/846 share i.e. (1k-1M) total area 4K-17M situated within the revenue estate of village Badshapur, Tehsil and District Gurugram, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

10.CWP No.1294 of 2018: The claim of the petitioners in the instant writ petition pertains to Khasra No.50//17 (3-8), 18/2 (6-4), 18/3(1-2), 19 min(7-16), 22/2 min (1-9), 23(8-0), 24(1-

10) total area 25k-16m situated within the revenue estate of village Fazilka Jharsa, Tehsil and District Gurugram, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

11.CWP No.1459 of 2018: The claim of the petitioners in the instant writ petition pertains to Rect.No.33, Killa No.6/2, 7/2 8 & 9 to the extent of their share, situated within the revenue estate of village Badshapur, Tehsil and District Gurugram, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them

without any intervention by Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

12.CWP No.1651 of 2018:The claim of the petitioners in the instant writ petition pertains to Rect.No.27, Killa No.17, 18, 23, 24, 26 Rec.No.33 Killa No.2,3,4, 5/1, 6/1, 7/1 total measuring 49 kanal 5 marla to the extent of their share 30/84 share which comes to 17 kanal 12 marla equal share, situated within the revenue estate of village Badshapur, Tehsil and District Gurugram, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them without any intervention of Court. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

land owners/persons interested approached this Court by way of CWP No.23319 of 2014 (Yashi Buildcon Pvt.Ltd. Vs The State of Haryana and others) and 20283 of 2016 (Anil and others vs State of Haryana and others) seeking a declaration that the impugned acquisition qua their land/properties is deemed to have lapsed under Section 24(2) of the 2013 Act. This Court vide orders dated November 23, 2016 and December 14, 2016 respectively, allowed those writ petitions, as it was found that compensation amount was neither consented to be received by them nor it was deposited with the Reference Court in accordance with law. However, having regard to the importance of the 'public purpose' of acquisition, this Court had directed that the writ petitioners will keep the land/property free from all types of incumbrances and will not change its nature for a period of one year so that the State could re-acquire the same in accordance with the 2013 Act if so required for the said purpose. Learned State counsel fairly concedes that no process to re-acquire the land in those cases has been started till date, though the period of one year has already expired. Though according to him instructions have been issued to the State counsel in New Delhi to file SLP but it appears to have not been filed so far. In the given circumstances, we can safely infer that orders passed by this Court in Yashi Buildcon Pvt.Ltd. and Anil and others (supra) have attained finality.

[7] Adverting to the facts of the case in hand, there is no gain saying that the petitioners never agreed to receive the compensation amount as was awarded by Land Acquisition Collector nor the compensation amount has been deposited with the Reference Court in accordance with

parcels of land is with the petitioners as most of them have raised some residential, commercial or some structures at the sites. In this view of the matter, there can be no escape but to hold that the petitioners have established both the ingredients of Section 24(2) of the 2013 Act. Suffice to observe that even a *Gair Morushi* is also a person interested and has *locus standi* to seek declaration of acquisition having lapsed under Section 24(2) of the 2013 Act. The objections raised by the respondents in their written statement to oppose petitioners' claim have been elaborately dealt with by this Court in Ghasitu Ram vs State of Haryana and others 2017(3) RCR (Civil) 524 and Satnam Singh and another vs State of Haryana and others 2017(3) RCR (Civil) 579. It is not necessary to burden this order with the reasonings already assigned by this Court in the cited decisions.

[8] In the light of the above discussion, the writ petitions are allowed. The impugned acquisition qua the land or the properties of the petitioners is declared to have lapsed under Section 24(2) of the 2013 Act. However, on the analogy of the cited decisions, it is directed that the petitioners shall not change the nature of the land/properties and shall not create any third party rights in the released land for a period of one year so that if their subject property/land is required by the State for the notified public purpose, it may re-acquire the same in accordance with the 2013 Act. Even if the State Government decides not to acquire the petitioners' land, it is directed that the released land shall be used in conformity with the development plan of the area and the petitioners shall not be permitted to carry out any unauthorised/impermissible activity at the released property.

accordance with law. As regard to the development of green belt at Gurugram-Sohana Road for which a very small portion of the land of petitioners in CWP No.23543 of 2015 is required, we direct that let compensation qua that land be assessed under Section 24(1) of the 2013 Act and be released to the owners to the extent their land is to be utilised for the above mentioned public purpose. Similarly, in CWP No.4000 of 2017 the acquired land under occupation of *Gair Morushi* to the extent it is required for construction of road etc. shall be utilised free of cost whereas the acquisition qua the remaining land shall be taken to have lapsed in the above terms.

**(SURYA KANT)
JUDGE**

January 29, 2018
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**(SHEKHER DHAWAN)
JUDGE**

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |