

CM-7231-13182-CWP-2017 in/and
CWP-7204-2016 (O&M)

-1-

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-7231-13182-CWP-2017 in/and
CWP-7204-2016 (O&M)
Date of Decision: January 11, 2018

Krishan Murari

.....Petitioner

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 |

.....

Present: Mr.Shekhar Verma, Advocate for the petitioner.

Mr.Ankur Mittal, Addl.AG, Haryana with
Mr.Manoj Dhankhar, AAG, Haryana.

Mr.Naveen Batra, Advocate for respondent No.3.

.....

SURYA KANT, J.

CM-7231-CWP-2017

Application is allowed subject to all just exceptions and
Annexures P-9 to P-11 are taken on record.

CM-13182-CWP-2017

Application is allowed subject to all just exceptions and
Annexures P-12 to P-14 are taken on record.

CWP-7204-2016

The petitioner's land measuring 04K-13M comprised in
Khewat/Khatoni No.81-66/88, Rectangle No.207, Khasra No.22/3 situated

within the revenue estate of village Hodal Patti Tihar, now Tehsil & District Palwal, was acquired for the public purpose of 'Extension of grain market, office staff quarters, goods shed and farmers' rest house' in the Market Committee at Hodal. Sections 4 & 6 Notifications were issued by invoking the urgency clause under Section 17 of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act') and Notifications to this effect were issued on 22nd and 23rd January, 1981 respectively. The Award was, however, announced after three years on 19.04.1984. The petitioner challenged the acquisition through CWP No.5588 of 1984 which was allowed by this Court on 26.02.1985 and the acquisition was quashed. The aggrieved Market Committee, Hodal, approached the Hon'ble Supreme Court and vide judgment dated 06.11.1995 (Annexure P-5) the Apex Court set aside the judgment of this Court and up-held the acquisition. The Apex Court also observed that "in the event of the finding that it was constructed after the judgment of the High Court, the appellant shall pay the compensation for the value of the construction of the mill within a period of four months from the date of the decision made by the learned District Judge. If the respondents had not made any application for reference, it may be open to them to make the application under Section 18 within one month from today".

[2] In deference to the above reproduced liberty granted by the Hon'ble Supreme Court, the petitioner approached the District Judge, Faridabad, who vide Award dated 01.04.2009 (Annexure P-7) determined the compensation in respect of the petitioner's acquired land, without granting any compensation for the alleged structure existing at the site.

[3] The petitioner in the second round of litigation relies upon Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act'), to contend that since no compensation has been paid to him qua the structure, the acquisition is deemed to have lapsed.

[4] We have heard learned counsel for the parties at a considerable length and gone through the record. Since the compensation for the acquired land as determined by the learned Additional District Judge, Faridabad, in terms of the liberty granted by the Hon'ble Supreme Court has been paid to the petitioner, the acquisition cannot be said to have lapsed under Section 24(2) of the 2013 Act, more so when possession of the acquired property has already been taken by the State Authority/Market Committee, Hodal.

[5] There is, however, a passing reference regarding existence of some structure at the site when the original Award was passed by the Land Acquisition Collector on 19.04.1984. Learned Additional District Judge, Faridabad, in his reference Award dated 01.04.2009 has declined to grant compensation for that structure for the reasons assigned in para 18 of the said Award. The aggrieved petitioner has already filed Regular First Appeal No.223 of 2012 challenging the above-stated Award and his appeal is still pending in this Court.

[6] Since in the instant writ petition the petitioner has confined his claim qua the compensation for the structure which was allegedly in existence at the time when the original Award dated 19.04.1984 was passed, we are of the view that such a claim can effectively be urged by the

petitioner before this Court at the time of hearing of his above-mentioned First appeal. We, thus, dispose of this petition with liberty to the petitioner to claim compensation for the alleged structure, if any, which was in existence at the site before issuance of Notification under Section 4 of the 1894 Act, or raised thereafter but before the matter was decided by the Hon'ble Supreme Court, in the first appeal pending in this Court. Ordered accordingly.

**(SURYA KANT)
JUDGE**

January 11, 2018
meenuss

**(SHEKHER DHAWAN)
JUDGE**

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