

CWP No.14019 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14019 of 2018

Date of Decision: 17.08.2021

Kalam Singh & another

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: None for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana.

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, petitioners have challenged notification dated 26.05.1981 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 08.05.1984 (Annexure P-3) issued under Section 6 of the 1894 Act and the award dated 27.06.1984 with a prayer for release of their land as per Section 24 (2) of the Right of Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act').

2. The preliminary ground which has been taken by the petitioners is that since the actual physical possession of the land in dispute remained with the petitioners continuously from the date of acquisition and still continues, which is more than 36 years at the time of filing of the writ petition despite the fact that the award was passed on 27.06.1984, therefore,

benefit of Section 24 (2) of 2013 Act needs to be granted to the petitioners by holding that the acquisition has lapsed.

3. This assertion of the petitioners cannot be accepted in the light of the fact that the land which has been purchased by the petitioners is vide sale deeds dated 22.08.1988, 30.11.1998, 19.09.2000, 24.01.2002, 27.09.2004 and 27.06.2017, which clearly shows that the said land has been purchased by the petitioners after the passing of the award dated 27.06.1984, possession of which was taken by the respondents vide Rapat No.739, dated 27.06.1984 and mutation No.7453 entered in favour of the beneficiary department. On this score alone, the present writ petition deserves to be dismissed.

4. Apart from that, it would not be out of way to mention here that the original owner of the land, from whom the petitioners had purchased the land i.e. Rulda Singh son of Baru Singh had received the compensation amount. Petitioners were not the owners in record at the time of issuance of notification under Section 4 of 1894 Act, on 26.05.1981 as they are subsequent purchasers. In **Shiv Kumar Vs. Union of India** 2019 (10) SCC 229, Hon'ble Supreme Court has categorically held that the subsequent purchaser has no right to question the validity of the acquisition proceedings much less can he claim the lapsing of acquisition proceedings. This aspect has been affirmed by the Constitutional Bench of the Hon'ble Supreme Court in para 337 of the judgment in **Indore Development Authority Vs. Manoharlal and others** 2020 (AIR) SC 1496, which reads as follows:-

“337. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the

concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. The beneficiaries, i.e., landowners contemplated under the proviso to Section 24(2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the Act of 1894. The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from proviso to Section 24(2) and the decision in Shiv Kumar and Ors. v. Union of India and Ors...”

In the light of above, petitioners cannot claim the lapsing of acquisition proceedings as they are the subsequent purchasers.

5. Paras 244 and 245 of the judgment in *Indore Development Authority's* case (supra) deal with the vesting of the land in the State on

taking of possession of the acquired land, for which the award has been passed free from encumbrances. The person retaining possession thereafter is to be treated as a trespasser as he does not have any right to continue in possession of the land, which has vested in the State. Possession of the land has been taken by the respondents vide Rapat No.739, dated 27.06.1984 and mutation No.7453 entered in favour of the beneficiary department, thus, fulfilling one of the conditions with regard to the possession having been taken over especially in the light of the fact that the possession through rapat roznamacha has been held to be valid mode of taking possession of the land.

That apart, since the land in question affects the site of 10 marlas plot and 10 meter wide road as per the approved layout plan of Sector 9, Ambala, the same, in any case, cannot be released as it would directly affect the planning.

6. In view of the above, we do not find any merit in the present writ petition and therefore, dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

17.08.2021

Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No