

CWP No.6281 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6281 of 2018

Date of Decision: 17.08.2021

Avtar Singh & others

...Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: Mr. Narender Pal Bhardwaj, Advocate,
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 10.11.2000 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 08.11.2001 (Annexure P-2) issued under Section 6 of the 1894 Act and the award dated 05.11.2003 (Annexure P-3) 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. Counsel for the petitioners asserts that the petitioners are co-sharer in land measuring 13 kanals and 4 marlas situated in Khasra No.27//22/2, 23, 28, 34//2, 3/1, Hadbast No.125, at revenue estate of village Shahpur. He states that in the light of the provisions as contained in Section 24 (2) of 2013 Act, respondents having neither taken physical possession of

the land nor have the compensation amount been disbursed, would render the land of the petitioners acquired vide award dated 05.11.2003 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the petitioners are running a flour mill in the name of 'M/s Pal Brothers Flour Mills' and a Dhaba in the name and style of 'Villager's Dhaba'. It is asserted that the land acquisition proceedings under 1894 Act would lapse. Counsel for the petitioners, on this basis, asserts that the notifications dated 10.11.2000 and 08.11.2001 as also the award dated 05.11.2003 deserve to be quashed.

3. On the other hand, learned counsel for the respondents submits that for applicability of Section 24 (2) of 2013 Act, which would entitle the petitioners the benefit of release of land on the lapsing of the acquisition proceedings initiated under the 1894 Act, there should neither be physical possession taken nor compensation paid. If any of the two contingencies has been complied with, then the land acquisition proceedings under 1894 Act would not lapse. In this regard, counsel for the respondents has placed reliance upon the judgment of the Hon'ble Supreme Court in **Indore Development Authority Vs. Manoharlal and others** 2020 (AIR) SC 1496.

To substantiate this contention, counsel for the respondents has referred to the reply which has been filed by way of an affidavit of Land Acquisition Collector, Urban Estate, Panchkula, dated 08.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.556, dated 05.11.2003, after the passing of the award dated 05.11.2003.

It has further been asserted that out of the total amount of the award of Rs.4,04,06,737/-, an amount of Rs.3,10,55,450/-, has already been

disbursed and the remaining amount is lying deposited with the LAC account i.e. Rs.93,51,287/-. So far as the amount of compensation due to the petitioners is concerned, i.e. Rs.50,787/-, the said amount has not been lifted by the petitioners.

4. His further contention is that the land of the petitioners affects the planning of approved Medical College as per approved site plan and therefore, the land of the petitioners cannot be released. Since the compensation amount has been duly deposited with the Land Acquisition Collector and further, the possession has been taken vide Rapat No.556, dated 05.11.2003, the deemed lapsing of acquisition under Section 24 (2) of 2013 Act would not apply. The writ petition, therefore, deserves to be dismissed.

5. We have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the pleadings as well as the judgment passed by the Hon'ble Supreme Court in *Indore Development Authority's* case (supra).

6. The facts, as has been narrated above, have not been disputed. Notifications under Sections 4 and 6 of the 1894 Act were issued on 10.11.2000 and 08.11.2001 respectively, leading to the passing of the award dated 05.11.2003. Petitioners are co-sharer in land measuring 13 kanals and 4 marlas situated in Khasra No.27//22/2, 23, 28, 34//2, 3/1, Hadbast No.125, at revenue estate of village Shahpur and are seeking lapsing of acquisition with the aid of Section 24 (2) of 2013 Act.

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 vide Rapat Roznamacha No.556, dated 05.11.2003, 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.

7. As regards the compensation amount is concerned, it has been specifically averred in the reply that out of the total amount of the award of Rs.4,04,06,737/-, an amount of Rs.3,10,55,450/-, has already been disbursed and the remaining amount is lying deposited with the LAC account i.e. Rs.93,51,287/-. So far as the amount of compensation due to the petitioners is concerned, i.e. Rs.50,787/-, the said amount has not been lifted by the petitioners. Merely because the petitioners have not collected the amount of compensation, it would not entitle the petitioners to assert that the compensation has not been disbursed to them.

8. Para 203 of the judgment in *Indore Development Authority's* case (supra) deals with the word 'paid' and it has been concluded in para 206 that when the amount has been tendered, the obligation has been fulfilled by the Collector. In case a person does not collect the amount, he cannot take the benefit of the same by asserting that the amount has not been paid to him and as such, there is a lapse of proceedings. Apart from that, it has been held in para 224 of the said judgment that word 'paid' used in Section 24 (2) of 2013 Act does not include within meaning the word 'deposited', which has

been used for proviso to Section 24 (2). It has, therefore, been concluded that the acquisition would not lapse, if the compensation amount is deposited with the Land Acquisition Collector, which is available for disbursement to the land owner(s).

That apart, since the land of the petitioners affects the planning of approved Medical College as per the approved site plan, the land of the petitioners, in any case, cannot be released as it would directly affect the planning.

9. 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