

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

CWP No.36625 of 2019 (O&M)

Date of decision: 06.12.2022

Virender Singh and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Lekh Raj Nandal, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana,
and Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J

CM-3417-CWP-2020

Let the present application be heard along with the main petition today itself. Accordingly, main petition i.e. CWP-36625-2019 is taken up on today's board.

CWP-36625-2019

Petitioners are seeking quashing of the notifications dated 01.01.2002 and 30.12.2002 (Annexures P-1 and P-2) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short '1894 Act') along with the award dated 29.12.2004 (Annexure P-3). Further prayer has been made to release the land of the petitioners keeping in view the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act').

The impugned notifications were issued for a public purpose namely, for development and utilization of land for commercial Sector 6, Rohtak, under Haryana Urban Development.

Case of the petitioners is that they are owners in possession of land described in Khewat No.1259, Khatoni No.1418, Killa No.43/8/1 (5-4), 43/13/2 (7-0), 14/1 (1-18), 43/23 (7-2), 43/18 (8-0), 43/3 (8-0), total 37 Kanals 04 Marlas, situated in the revenue estate of village Para, Tehsil & District Rohtak, as per Jamabandi for the year 2015-16. Release of land from acquisition is being sought on the ground that acquisition qua the land of the petitioners has lapsed in view of Section 24 (2) of 2013 Act.

Upon notice, short reply dated 14.11.2022, by way of affidavit of Land Acquisition Officer, Urban Estate Department, Rohtak, has been filed, wherein it has been stated that possession of the land was taken vide Rapat No.445 dated 29.12.2004 and process of entering the mutation infavour of beneficiary department is under process. Thus, due possession of the land stands taken and it is vested in the State free from all encumbrances. It is further stated that after passing of award, entire compensation was tendered and was made available to the landowners. This fact is evident from the fact that out of the total award amount of Rs. 24,74,48,467/-, amount of Rs.19,25,05,992/- has been disbursed and rest of the amount is pending for disbursement. It is further stated that petitioners have already received the compensation qua their share, except Killa No.43//3 (8-0) and 8/1 (5-4). They are at liberty to receive the remaining compensation, which is left to be received by them. Once, the compensation has been tendered/deposited, the acquisition cannot lapse as per Section 24 (2) of 2013 Act and judgment passed by Hon'ble the

Supreme Court in Indore Development Authority vs. Manoharlal and others, SLP (C) No.9036-9038 of 2016 (decided on 06.03.2020). In the said judgment, Hon'ble the Supreme Court has categorically, observed that once possession has been taken and mode of *Rapat Roznamcha* is entered, the land vests absolutely in the State and it cannot be given back.

Heard. In the present case, possession of land was taken vide *Rapat* No.445 dated 29.12.2004. Hence, physical possession of the land is already with the State. *Rapat Roznamcha* has been entered. In Indore Development Authority's case (supra), Hon'ble the Supreme Court observed that for the deemed lapse of acquisition under Section 24 (2) of 2013 Act, both the conditions i.e. payment of compensation and taking of possession must not be fulfilled. It was further observed that the word 'or' in Section 24 (2) of 2013 Act must be read as 'and'. It has been further observed as under:-

“99. In this Court's considered view, as regards the collation of words used in Section 24 (2), two negative conditions have been prescribed. Thus, even if, one condition is satisfied, there is no lapse, and this logically flows from the Act of 1894 read with the provisions of Section 24 of the Act of 2013. Any other interpretation would entail illogical results. That apart, if the rule of interpretation with respect to two negative conditions qualified by “or” is used, then “or” should be read as “nor” or “and”.

xxx xxx xxx xxx”

In the facts of the present case also, possession of the land has already been taken vide *Rapat* No.445 dated 29.12.2004 and out of the total award amount of Rs. 24,74,48,467/-, amount of Rs.19,25,05,992/- has already been disbursed to the landowners and rest of the amount is pending for disbursement. Thus, there can be no lapse of acquisition qua the land of the petitioners. Moreover, after tendering the entire compensation, the land vests in the State as per the judgment passed in Indore Development

Authority's case (supra).

Resultantly, finding no merits, the present petition is dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

06.12.2022
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No