

CWP-8792-2019

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

CWP No.8792 of 2019

Date of Decision: 17.08.2021

Daljeet 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: 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 09.08.2002 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 08.08.2003 (Annexure P-4) issued under Section 6 of the 1894 Act and the award dated 05.08.2005 (Annexure P-5) 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. It has been asserted in the writ petition that petitioners had purchased land measuring 8.26 marlas and 16-1/2 marlas at Patti Kaisth, Hadbast No.24, Tehsil and District Kaithal, vide sale deeds No.2447 dated 04.09.1998 and No.1714 dated 07.08.1996 and mutations were sanctioned in their favour, copies of which are appended as Annexures P-1 and P-2.

Thereafter, State of Haryana, vide notifications mentioned above, started

acquisition proceedings and an award was passed on 05.08.2005 (Annexure P-5). It has been pleaded that the compensation of the land and structure is not accepted by the petitioners and is still unpaid. It is further asserted that in the light of the provisions as contained in Section 24 (2) of 2013 Act, respondents have not taken physical possession of the land, which would render the land of the petitioners acquired vide award dated 05.08.2005 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the petitioners have constructed their houses thereon and are residing. It is asserted that the land acquisition proceedings under 1894 Act would lapse. On this basis, it has been asserted that the notifications dated 09.08.2002 (Annexure P-3) and dated 08.08.2003 (Annexure P-4) as also the award dated 05.08.2005 (Annexure P-5) cannot sustain and deserve to be set aside.

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 19.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.735, dated 05.08.2005, after passing of the award dated 05.08.2005 and

mutation qua the same has been duly entered. It has further been asserted that out of the total amount of the award of Rs.23,52,17,582/-, an amount of Rs.20,42,12,190/- has already been disbursed. Rest of the amount i.e. Rs.4,12,72,928/- is lying deposited in the account of the Land Acquisition Collector. So far as the amount of compensation due to the petitioners is concerned, i.e. Rs.40,659/-, the said amount is also lying deposited with the Land Acquisition Collector, which compensation amount has not been lifted by the petitioners.

4. His further contention is that the land of the petitioners affects the planning of two plots of 8 marlas category as per approved layout plan dated 18.12.2006, of Sector 21, Kaithal 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.735, dated 05.08.2005, 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 09.08.2002 and 08.08.2003 respectively, leading to the passing of the award dated 05.08.2005. Petitioners are claiming themselves to be the owners of land measuring 8.26 marlas and 16-1/2 marlas at Patti Kaisth, Hadbast No.24, Tehsil and District Kaithal 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.735, dated 05.08.2005, 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.23,52,17,582/-, an amount of Rs.20,42,12,190/- has already been disbursed. Rest of the amount i.e. Rs.4,12,72,928/- is lying deposited in the account of the Land Acquisition Collector. So far as the amount of compensation due to the petitioners is concerned, i.e. Rs.40,659/-, the said amount is also lying deposited with the Land Acquisition Collector, which compensation amount has not been lifted by the petitioners. Merely because the petitioners have not collected the amount of compensation, it would not entitle them 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 two plots of 8 marlas category as per approved layout plan dated 18.12.2006, of Sector 21, Kaithal, 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