

CWP No.9678 of 2019

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

CWP No.9678 of 2019**Date of Decision: 17.08.2021****Paramjeet 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: Mr. Aman Bansal, 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 19.07.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 17.07.2003 (Annexure P-3) issued under Section 6 of the 1894 Act and the award dated 16.07.2005 (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. Counsel for the petitioners asserts 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 16.07.2005 liable to be released, in view of Section 24 (2) of 2013 Act. It is asserted that the land acquisition proceedings under 1894 Act would lapse. An additional ground which has been raised in the present writ petition is that the Director, Urban Estate Department, after the passing

of the award 16.07.2005 (Annexure P-5), arbitrarily released some land in parcel along with the construction in some undetermined ratio by asserting that the green belt was not feasible as was proposed in the original plan, whereas the land of the petitioners was not released in a similar manner. Counsel for the petitioners, on this basis, asserts that the notifications dated 19.07.2002 (Annexure P-2) and dated 17.07.2003 (Annexure P-3) as also the award dated 16.07.2005 (Annexure P-5) cannot sustain and 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 Estates, Panchkula, dated 25.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.881, dated 16.07.2005, after the passing of the award dated 16.07.2005 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.19,90,63,703/-, an amount of Rs.16,23,03,019/- has already been disbursed. Rest of the amount 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.49,888/-, the said amount has not been collected by the petitioners.

4. His further contention is that the land of the petitioners affects the planning of taxi stand site, 24 meter wide road, two plots of 8 marla category, open space/green area as per approved layout plan dated 15.12.2006 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.881, dated 16.07.2005, 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 have been narrated above, have not been disputed. Notifications under Sections 4 and 6 of the 1894 Act were issued on 19.07.2002 and 17.07.2003 respectively, leading to the passing of the award dated 16.07.2005. Petitioners are seeking lapsing of acquisition of the land 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.881, dated 16.07.2005, 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.19,90,63,703/-, an amount of Rs.16,23,03,019/- has already been disbursed. Rest of the amount 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.49,888/-, the said amount has not been collected by the petitioners till date. 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).

9. The plea of discrimination as sought to be raised by the petitioners is not acceptable when seen in the light of the alleged discrimination pressed into service as the said land has no connection with the land of the petitioners. Discrimination, if any, had to be shown as hostile and merely because some constructed area has been left out of an acquisition, cannot, in itself, be ground for asserting that the others are entitled to the same benefit unless the fact be demonstrated positively, so as to assert that there has been indeed discrimination. We do not find any such aspect which would substantiate the assertion of the petitioners.

10. That apart, since the land of the petitioners affects the planning of taxi stand site, 24 meter wide road, two plots of 8 marla category, open space/green area as per approved layout plan dated 15.12.2006, the land of the petitioners, in any case, cannot be released as it would directly affect the planning.

11. In view of the above, finding no merit the present writ petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

17.08.2021

Harish

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