

CWP No.15074 of 2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15074 of 2019

Date of Decision: 17.08.2021

Ranbir 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. Ashok Kumar Khubber, 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 02.05.2001 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 30.04.2002 (Annexure P-2) issued under Section 6 of the 1894 Act and the award dated 20.04.2004 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 submits that the petitioners are owners of land measuring 6 kanals and 4 marlas comprised in Khewat No.73//61, Khatauni No.113, Khasra No.704/2/2 (1-9) and 705 (4-15).

Counsel asserts 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 27.04.2004 liable to be released, in view of Section 24 (2) of 2013 Act. It is asserted that the respondents have adopted pick and choose policy by releasing various lands from acquisition. Counsel for the petitioners, on this basis, asserts that notification dated 02.05.2001 (Annexure P-1), notification dated 30.04.2002 (Annexure P-2) and the award dated 20.04.2004 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, Panchkula, dated 25.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.730, dated 14.03.2002. It has further been asserted that so far as the amount of compensation of the petitioners is concerned. The petitioners have themselves admitted in para 4 of the writ petition that they have received the compensation amount and thereafter, have even filed a reference under Section 28-A of the 1894 Act. It has been further mentioned that the land

falling in Khasra No.704/2/2 (1-9) was not acquired vide impugned notifications dated 02.05.2001 and 30.04.2002 followed by award dated 27.04.2004, rather the said land was acquired vide notifications dated 10.05.2001 and 11.05.2001 followed by the award dated 14.03.2002. It has further been stated that the possession of the land comprised in Khasra No.705 (4-15) was taken vide Rapat No.1345, dated 27.04.2004.

4. His further contention is that the land of the petitioners, which has been acquired, affects the EWS housing sites No.3 and 4 as well as 18 meter wide road and therefore, the land of the petitioners cannot be released. Since the compensation amount has been duly received by the petitioners and further, the possession has been taken vide Rapat No.730 dated 14.03.2002 and Rapat No.1345, dated 27.04.2004, 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. Petitioners are claiming that they are owners of land measuring 6 kanals and 4 marlas comprised in Khewat No.73//61, Khatauni No.113, Khasra No.704/2/2 (1-9) and 705 (4-15) 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 No.730 dated 14.03.2002 and Rapat No.1345, dated 27.04.2004, 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 admitted by the petitioners themselves in para 4 of the writ petition that they have received the compensation amount and have also filed a reference under Section 28-A of the 1894 Act for enhancement of compensation. Once the amount of compensation has been received by the petitioners, they cannot take the benefit by asserting that there is a lapse of proceedings.

Another aspect is that the petitioners have challenged wrong notifications as the respondents have taken a specific stand that the land falling in Khasra No.704/2/2 (1-9) was not acquired vide impugned notifications dated 02.05.2001 and 30.04.2002 followed by award dated 20.04.2004, rather the said land was acquired vide notifications issued under Sections 4 and 6 of the 1894 Act, dated 10.05.2001 and 11.05.2001 respectively, followed by the award dated 14.03.2002 and the possession of the land was taken vide Rapat No.730, dated 14.03.2002, which has not been disputed. On this ground alone, the present writ petition deserves dismissal.

That apart, since the land of the petitioners affects the EWS housing sites No.3 and 4 as well as 18 meter wide road, the same, in any

case, cannot be released as it would directly affect the planning.

8. 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