

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10548-2015

Date of Decision: 17th November, 2020

Raj Singh and another

....Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr.Vikram Singh, Advocate, for the Petitioners.

Mr.Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. The challenge in this petition is to quash an order dated 28th April, 2015 passed by the Secretary-cum-Director General, Urban Estates Department, Haryana, rejecting the Petitioners' representation made consequent to an order dated 9th October, 2014 passed by this Court in CWP No.20855 of 2014 (*Raj Singh and another v. State of Haryana*), the operative portion of which reads as under:

“The petitioners are statedly owners of the land fully described in para-2 of the writ petition. They impugn acquisition of their land/shops/residential plots carried out vide Award dated 23.3.1993, on the premise that since possession of the acquired land has not been taken from them, the provisions contained in Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall apply and the old acquisition is deemed to have lapsed. The petitioners have also placed on record certain photographs to substantiate their plea.

The question whether possession has been taken or not, is essentially a question of fact. In such like situation, this Court in CWP No.6267 of 2014 (*Gurjeet Singh and others versus State of Punjab and others*) decided on 01.04.2014, has observed as follows:-

“...The question whether physical possession of the entire land was taken by the authorities or the petitioners continue to retain the same without intervention by any Court, can also be effectively decided by the respondents on verification of the record. We thus, dispose of this writ petition without expressing any views on merits, with a direction to respondent Nos.2 & 3 to treat this writ petition as representation-cum-claim petition on behalf of the petitioners and decide the same in accordance with law or in the light of the observations made herein-above, within a period of three months from the date of receiving a certified copy of this order....”

The instant writ petition is also thus disposed of in the above-reproduced terms.

If the petitioners have raised any construction, demolition thereof shall remain stayed till the matter is decided by the authorities.

Ordered accordingly.”

2. The impugned order notes that a report was sought from the HUDA, as well as the Land Acquisition Collector (LAC), Gurgaon. It is noted in the impugned order that the Petitioners' land in khasra No.23/23/2 measuring 2 kanals 5 marlas in village Kanhai District Gurugram, was notified on 24th January, 1990 for acquisition under Section 4 of the Land Acquisition Collector, 1894 (in short 'LAA') for development of Sector 45 at Gurgaon. The constructed area measuring 1 kanal 4 marlas was excluded from the consequential declaration dated 18th April, 1991 under Section 6 of the LAA. The remaining land measuring 1 kanal 1 marla was acquired vide Award dated 23rd March, 1993. The impugned order notes that the possession of the land was handed over to HUDA on the same day under rapat No.425.

3. As regards the payment of compensation, it is stated as under:

“The petitioners were not paid compensation of the acquired land as they did not submit their consent in writing to receive compensation and also did not submit relevant documents to prove their ownership. However, un-disbursed compensation amount is lying in the account of LAC, Gurgaon. From the aforementioned facts, it is evident that the provisions

of Section 24(2) of the RFCT LARR (amendment) Ordinance, 2015 are not applicable in petitioners' case."

4. After the decision of the Constitution Bench of Supreme Court delivered in ***Indore Development Authority v. Manoharlal AIR 2020 SC 1496***, none of the conditions for grant of the relief in terms of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 stands fulfilled. Nevertheless, it will be open to the Petitioners to seek release of the compensation to which they are entitled by approaching the LAC, in accordance with law.

5. The petition is dismissed in the above terms. The interim order is hereby vacated.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

17th November, 2020

Davinder Kumar

Whether speaking / reasoned: Yes / No

Whether reportable: Yes / No