

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP No.24769 of 2015

Chander SharmaPetitioner

Versus

State of Haryana and othersRespondents

2. CWP No.3494 of 2015 (O&M)

Subhash Chander ChawlaPetitioner

Versus

State of Haryana and othersRespondents

Date of Decision: 12.02.2020

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Naveen Chopra, Advocate,
for the petitioner. (In CWP No.24769 of 2015)

None for the petitioner. (In CWP No.3494 of 2015)

Mr. Ankur Mittal, Additional Advocate General, Haryana,
for the respondents.

KARAMJIT SINGH, J.

This order shall dispose of CWP No.24769 of 2015 and CWP No.3494 of 2015, as both the writ petitions have been preferred for quashing of Award dated 01.06.2000 passed in pursuance to notification dated 04.06.1997 issued under Section 4 of the Land Acquisition Act and notification dated 02.06.1998 issued under Section 6 of the Land Acquisition Act with further direction to the respondents to release their land, as per the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter called, 'Act of 2013'). For better appreciation of the controversy, the facts of the writ petitions are noticed separately.

CWP No.24769 of 2015

The case of the petitioner is that she is senior citizen. She along with Ashwani Kumar, Arti Rani, Satish Kumar and Kusum Rani purchased one compact block of commercial property bearing Khasra No.121//19/1, 22 and 26, total measuring about 1409 Square Yards. Out of the entire plot, area measuring 458 Square Yards is owned by the petitioner, which was purchased by her, vide two registered sale deeds bearing Nos.7992 and 7993 dated 01.01.1991. The boundary wall and construction was raised in the said plot after getting approved the building plan (Annexure P-7). The Government issued notification dated 04.06.1997 under Section 4 of the Land Acquisition Act and notification dated 02.06.1998 issued under Section 6 of the Land Acquisition Act to acquire the land including the above-said property of the petitioner. The concerned notifications are Annexures P-9 and P9/B. The Award was passed on 01.06.2000. However, no compensation has been paid to the petitioner and the possession is still with the petitioner. The property in question is no more required by the respondents for any purpose. Earlier also the said property was released in 1984 from acquisition by the respondents while taking into account the potential loss to the petitioner due to demolition of building and depriving the petitioner of her only source of livelihood. The land owned by one Darshan Lal Garg, which was also earlier released, has been even now kept out of the aforesaid acquisition proceedings. It is further pleaded that the case of the petitioner is covered under Section 24(2) of the Act

of 2013. Hence, this writ petition has been filed.

The Land Acquisition Collector, Urban Estate Panchkula, furnished his affidavit contesting the claim of the petitioner.

CWP No.3494 of 2015 (O&M)

The case of the petitioner is that he and his father, Mohan Lal, purchased 2 Kanal 10 Marla of land, vide sale deed dated 07.05.1990 (Annexure P-1). The said land comprised of Khsara No.121//21/1 and was a part of an industrial unit. Mohan Lal died on 09.09.2008 leaving behind three sons and a daughter. The petitioner is co-owner of the above-said property. The Government issued notification dated 04.06.1997 under Section 4 of the Land Acquisition Act and subsequent notification dated 02.06.1998 under Section 6 of the Land Acquisition Act to acquire the land including aforesaid land of the petitioner. The Award was passed on 01.06.2000. However, the possession is still with the petitioner and no compensation has been paid to him. The aforesaid property is no more required by the respondents for any purpose. During his life time, the father of the petitioner and some other land owners filed CWP No.8452 of 2000 challenging the compulsory acquisition of land and the said writ petition is still pending. It is further pleaded that the case of the petitioner is covered under Section 24(2) of the Act of 2013.

We have heard learned counsel for the parties and also gone through the record.

Learned counsel for the petitioner(s) contended that the case of the petitioner(s) is covered under Section 24(2) of the Act of 2013. The notifications under Sections 4 and 6 of the Land Acquisition Act were issued on 04.06.1997 and 02.06.1998 and the award was passed on 01.06.2000. The

possession of the property is with the petitioner. No compensation has been paid to the petitioner(s) by the respondents till date. So, the acquisition has lapsed as per provisions of Section 24(2) of the Act of 2013.

Learned counsel for the petitioner(s) further argued that previously also the property in question was released from acquisition in 1984, vide notification (Annexure P-8). The land of Darshan Lal Garg was also released, vide said notification. Even now, the land of Darshan Lal Garg has been kept out of the acquisition proceedings. It is further contended that the case of the petitioner(s) also deserve(s) to be treated on parity with that of Darshan Lal Garg. While concluding his arguments, learned counsel for the petitioner submitted that this writ petition deserves to be allowed.

On the other hand, learned counsel for the respondents contended that previously also petitioner filed similar writ petition and the same was dismissed on 18.12.2014, by this Court. It is further contended that acquisition has attained finality and 61% of the total amount of compensation has already been disbursed. The balance amount of compensation is lying deposited in the account of the Land Acquisition Collector. It is further contended that the present case is not covered under Section 24(2) of the Act of 2013. It is further argued that the case of the petitioner(s) is not similar to that of Darshan Lal Garg. It is prayed that the writ petitions be dismissed.

We have considered the submissions made by the learned counsel for the petitioner (Chander Sharma).

There is no dispute regarding the fact that the land in question, along with other land, was acquired by the State Government for the development and utilization of land (pockets) as residential, commercial and

industrial purpose for Sectors 17 and 18, Jagadhari, on the basis of notification dated 04.06.1997 under Section 4 of the Land Acquisition Act. Thereafter, declaration was made under Section 6 of the Land Acquisition Act, vide notification dated 02.06.1998. Finally, Award dated 01.06.2000 was passed.

The petitioners have sought release of their land on the ground that the acquisition has lapsed, as per the provisions under Section 24(2) of the Act of 2013. As per Annexure R2, which is part of the file of CWP No.24769 of 2015, the possession of the land in question was not taken by the State Government, as the dispossession of the petitioners was stayed by the High Court. As per the respondents, the release of the land in question would affect the commercial belt (showrooms), parking and green belt. Award in question was not challenged by the petitioner (Chander Sharma) before the filing of this writ petition.

Section 24(2) of the Act of 2013 reads as follows:-

“(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition

under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

It is the case of the respondents that compensation in respect of the majority of land holdings, i.e., 61% has been paid/deposited. As per Section 16 of the Land Acquisition Act, the Collector after passing of award, may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Petitioners failed to show that land of similarly situated persons has been exempted from acquisition or was later on released from acquisition, to establish that the aforesaid acquisition proceedings were discriminatory and unfair.

In this background, we are of the opinion that the acquisition of land in question has not lapsed, as provided under Section 24(2) of the Act of 2013. Consequently, both these writ petitions are hereby dismissed. However, we make it clear that if the land of the petitioners is not going to be utilized for the purpose for which it was acquired, in due course of time or if at any stage, the State Government decides to release the said land in favour of the non-Government agency, it shall give a fresh cause of action in favour of the petitioners to challenge such action or the acquisition of their land before an appropriate forum.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

12.02.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No