

CWP No.25274 of 2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.25274 of 2019

Date of Decision: 17.08.2021

Gurdiyal Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Ms. Mannat, Advocate for
Mr. Dinesh Saini, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana.

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, petitioner has challenged the order dated 17.04.2019 (Annexure P-7) passed by the Administrator, HSVP-cum-Additional Director, Urban Estates, Haryana – respondent No.3, whereby, his claim for release of his land as per Section 24 (2) of the Right of Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013, has not been considered and stands rejected.

2. Brief facts of the case are that the father of the petitioner, namely, Karam Singh has expired and after his death, petitioner is in possession of the house in question. He states that a notification dated 11.03.1981 (Annexure P-1) was issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') followed by notification dated 14.12.1983 issued under Section 6 of the 1894 Act for the

development and utilization of land for residential and commercial purposes of Sectors 5 and 7 of Kurukshetra. Thereafter, the Land Acquisition Collector had passed an award dated 12.09.1986 (Annexure P-2).

It has been stated that before passing of the said award, father of the petitioner had filed CWP No.4030 of 1985, which was disposed of vide order dated 01.01.1994 (Annexure P-3) directing the land Acquisition Collector to not pass supplementary award qua the super-structure standing on the land. However, supplementary award qua the super-structure has already been passed on 27.05.1987. Thereafter, father of the petitioner had filed CWP No.9317 of 2016, which was disposed of by this Court vide order dated 12.05.2016 (Annexure P-5) with liberty to the petitioner to file a detailed and comprehensive representation within a period of two months, which was directed to be decided in accordance with law by passing a speaking order after affording an opportunity of hearing within a period of four months.

Thereafter, the petitioner had submitted a certified copy of that order along with other documents in the office of the respondents, instead of submitting a representation, on 22.06.2016. The respondents had sent a letter dated 29.04.2019 (Annexure P-6) along with a copy of order dated 17.04.2019 (Annexure P-7) wherein it has been mentioned that no representation has been received from the petitioner and therefore, the claim of the petitioner cannot be considered. After the receipt of the said communication, petitioner had served a legal notice dated 06.05.2019 (Annexure P-8) to decide his claim afresh but no response thereto has been received till date.

3. Counsel for the petitioner 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 petitioner acquired vide award dated 12.09.1986 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the land of the petitioner is in the fully developed area where the people are residing. It is asserted that the land acquisition proceedings under 1894 Act would lapse. Counsel for the petitioner, on this basis, asserts that the notifications dated 11.03.1981 and 14.12.1983 as also the award dated 12.09.1986 deserve to be quashed.

4. On the other hand, learned counsel for the respondents submits that for applicability of Section 24 (2) of 2013 Act, which would entitle the petitioner 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 21.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.24, dated 12.09.1986, after the passing of the award dated 12.09.1986 and mutation in this regard has been entered in the revenue records. It has further been asserted that the petitioner has lifted the compensation amount as per his share i.e. Rs.33,335.40/-. It has been stated that the writ petition of

the petitioner i.e. CWP No.4030 of 1986 was allowed by this Court vide order dated 04.01.1994 qua 10 marlas of land, on which super structure was existing and qua rest of the land, acquisition was upheld. Therefore, the petitioner has no right to claim the lapsing of acquisition proceedings qua rest of the land under Section 24 (2) of the 1894 Act.

5. His further contention is that since the compensation amount has been duly received by the petitioner and the possession has been taken vide Rapat No.24, dated 12.09.1986, 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 11.03.1981 and 14.12.1983 respectively, leading to the passing of the award dated 12.09.1986. 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.24, dated 12.09.1986, 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 that the petitioner has lifted the compensation amount as per his share i.e. Rs.33,335.40/-. It has been stated in the reply that the earlier writ petition which was preferred by the father of the petitioner i.e. CWP No.4030 of 1986 was partly allowed by this Court vide order dated 04.01.1994 qua 10 marlas of land, on which super structure was existing and qua rest of the land, acquisition was upheld. Once the compensation amount has been received by the petitioner and acquisition of land has already been upheld by this Court, the land of the petitioner cannot be released as per Section 24 (2) of the Right of Fair Compensation and Transparency in the Last Acquisition, Rehabilitation and Resettlement Act, 2013.

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