

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

CWP-1690-2021

Date of Decision:-**25.01.2021**

Baljit Kaur

... Petitioner

Versus

State of Haryana and Others

... Respondents

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

Present:- Mr. Navmohit Singh, Advocate
for the petitioner.

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

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The present writ petition has been filed by the petitioner for
quashing of the land acquisition proceedings qua her land, which culminated
into Award dated 27.3.2002.

Brief facts of the case are that husband of the petitioner Devinder Singh purchased plot measuring 150 square yards out of Khasra No.94//23/1 vide sale deed dated 7.1.2000. Thereafter construction was raised in the said plot which comprised of two rooms, kitchen and toilet. Subsequently, the land including Khasra No.94//23/1 was acquired vide Notifications issued under Section 4 dated 28.8.2001 and under Section 6 dated 30/8/2001, which resulted in passing of Award dated 27.3.2002, under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The petitioner has challenged the aforesaid acquisition qua her abovestated plot/residential house on the ground that no compensation was paid to her and even the possession of the aforesaid property is still with her.

Mr. Ankur Mittal, Additional Advocate General, Punjab appeared on behalf of the respondents, as he was having advanced copy of the petition.

The State counsel was asked to assist the Court.

We have heard the counsel for the parties.

The counsel for the petitioner contended that the property in question deserves to be released from acquisition, as neither any compensation was paid to its owner nor its possession was ever taken over by the Government. To substantiate his contention, the counsel for the petitioner referred to electricity and sewerage bills of the property in question which were issued by the concerned authorities in the name of the petitioner/her husband.

The counsel for the petitioner further contended that the land was acquired by the Government for construction of road. Now the road has been constructed and the property in question remains unutilized and is of no use to the respondents. The counsel for the petitioner while concluding his arguments, made prayer that the writ petition be allowed.

The State counsel, on the other hand submitted that the compensation regarding the property in question was received by the person who was recorded as its owner in the revenue record. Even the Government had already taken the possession of the property in question. It was further contended that the case of the petitioner is not covered under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (hereinafter referred as '2013 Act').

We have considered arguments addressed by learned counsel for the parties.

As per Annexure P-4, the petitioner, earlier filed CWP-15987-2015 challenging the aforesaid acquisition and the same was disposed of with a direction to decide her representation within the stipulated period. In compliance thereof, respondent No.2 declined the representation of the petitioner vide speaking order dated 17.4.2017 (Annexure P-4), wherein it was recorded that the possession of the land was taken vide *Rapat Roznamcha* No.621 dated 27.3.2002. Aggrieved by the same, the present writ petition has been filed by the petitioner.

The challenge in this writ petition is to the land acquisition proceedings which commenced with Notification dated 28.8.2001 under Section 4 of the Act, a Notification dated 30.8.2001 under Section 6 of the Act and culminated in the Award dated 27.3.2002. It is the case of the petitioner herself that her husband purchased the plot in question comprised of Khasra No.94//23/1 vide sale deed dated 7.1.2000 and that the compensation granted by Land Acquisition Collector regarding the said property was received by the previous owner, whose name was recorded in the revenue record. Thus making it clear that the compensation with regard to the acquired land has already been paid to the person recorded as its owner in the revenue record. Also as per the respondents, the possession of the acquired land was taken over by the Government on 27.3.2002.

The Constitutional Bench of the Hon'ble Supreme Court has delivered its judgment in **Indore Development Authorities vs. Manhorlal and Others AIR 2020 (SC) 1496**, concerning the interpretation of Section 24(2) of the 2013 Act. In the **Indore Development Authorities** case (supra), the Hon'ble Apex Court clarified that in case possession has been taken, compensation has not been paid then there is no lapse of acquisition. Also, if compensation has been paid, possession has not been taken then there is no lapse. The Hon'ble Apex Court further observed that Section 24 of 2013 Act cannot be used to revive barred and stale claims and concluded cases.

In view of the above facts, which have not been able to be disputed by the petitioner and the legal position as explained by the

Constitutional Bench of Hon'ble Apex Court in **Indore Development Authorities** case (supra), the claim of the petitioner deserves to be rejected.

Consequently, this writ petition is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

25.01.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No