

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

213

**CWP No.6290 of 2019(O & M)
Date of Decision: 24.08.2021**

Narayan Dass & others

...Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Rakesh Nagpal, Advocate,
for the petitioners.

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

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH , J .

CM-11171-2021

Prayer in this application is for bringing on record the legal representatives of petitioner No.1-Narayan Dass, who expired on 17.05.2021.

The details of the legal representatives have been given in para No.2 of the application. In para No.3, it has been stated that apart from these three legal representatives there are none else. It is also asserted that the right to sue survives with the legal representatives of the deceased-petitioner No.1-Narayan Dass. The application is supported by affidavit of Brij Bhushan son of Narayan Dass, who is also one of the legal heirs.

In the light of the above, present application for bringing on record the legal representatives of petitioner No.1-Narayan Dass as detailed in para No.2 of the application is accepted. The legal representatives are brought on record subject to all just exceptions and for the purpose of

present litigation alone.

Amended memo of parties appended with the application is taken on record.

Registry is directed to tag the same at appropriate stage of the case.

CWP No.6290 of 2019

By filing the present writ petition, petitioners have challenged notification dated 09.08.2002 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 08.08.2003 (Annexure P-2) issued under Section 6 of the 1894 Act and the award dated 05.08.2005 (Annexure P-3).

2. Counsel for the petitioners 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 petitioners acquired vide award dated 05.08.2005 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the petitioners have constructed their houses thereon and are residing therein. It is asserted that the land acquisition proceedings under 1894 Act would lapse and therefore, the notifications and the award under challenge be quashed.

3. On the other hand, learned counsel for the respondents submits that for applicability of Section 24 (2) of 2013 Act, entitling the petitioners for 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 19.01.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.735, dated 05.08.2005, after the passing of the award dated 05.08.2005. It has further been asserted that out of the total amount of the award of Rs.23,52,17,582/-, an amount of Rs.20,42,12,190/- has already been disbursed, which comes to more than 99% of the total amount. Rest of the amount is lying deposited in the account of the Land Acquisition Collector, i.e. CCF HSVP, Panchkula. So far as the amount of compensation due to the petitioners is concerned, i.e. Rs.80,940/-, the said amount is also lying deposited with the Land Acquisition Collector, which compensation amount has not been collected by the petitioners.

4. His further contention is that the land of the petitioners affects the planning of 12m wide road, 4 no.plots of 6 marla category as per approved plan of Sector 21 dated 18.12.2006 and therefore, the land of the petitioners cannot be released. Since the compensation amount has been duly deposited with the Land Acquisition Collector and further, the possession has been taken vide Rapat No.735, dated 05.08.2005, 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 09.08.2002 and 08.08.2003 respectively, leading to the passing of the award dated 05.08.2005. Petitioners are owners of land measuring 0K 16.5M of land 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 Roznamacha No.735, dated 05.08.2005, 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 in the reply that out of the total amount of compensation of Rs.23,52,17,582/-, an amount of Rs.20,42,12,190/- stands already disbursed, which comes to more than 99% of the awarded amount. The remaining amount is lying deposited with the Land Acquisition Collector. Petitioners, as per the award dated 05.08.2005, are entitled to compensation of Rs.80,940/-, which has not been collected by the petitioners till date.

Merely because the petitioners have not collected the amount of

compensation, would not entitle them to assert that the compensation has not been disbursed to them.

8. Para 203 of the judgment in *Indore Development Authority's* case (supra) deals with the word 'paid' and it has been concluded in para 206 that when the amount has been tendered, the obligation has been fulfilled by the Collector. In case a person does not collect the amount, he cannot take the benefit of the same by asserting that the amount has not been paid to him and as such, there is a lapse of proceedings. Apart from that, it has been held in para 224 of the said judgment that word 'paid' used in Section 24 (2) of 2013 Act does not include within meaning the word 'deposited', which has been used for proviso to Section 24 (2). It has, therefore, been concluded that the acquisition would not lapse, if the compensation amount is deposited with the Land Acquisition Collector, which is available for disbursement to the land owner(s). That apart, since the land of the petitioners affects the planning of 12m wide road, 4 no.plots of 6 marla category, in any case, it cannot be released.

9. 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

August 24, 2021

neenu

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No