

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

CWP-3043-2021

Date of Decision:-25.02.2021

Rachna and another

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present:- Mr. P.R. Yadav, Advocate
for the petitioners.

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

KARAMJIT SINGH, J.

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

The challenge in this writ petition is to the land acquisition proceedings which commenced with a Notification dated 30.10.1992 (Annexure P-6) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act of 1894'), a Notification dated 28.10.1993 (Annexure P-7) issued under Section 6 of the Act 1894 and culminated in Award dated 26.10.1995 (Annexure P-8) passed by the respondent No.2-

Land Acquisition Collector, Urban Estate, Haryana, Gurugram, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013') on the ground that neither the possession of the acquired land in question was taken nor the compensation was ever offered or paid to petitioners/their predecessor-in-interest.

Mr. Ankur Mittal, Addl. A.G. Haryana, who is already having advance copy of the writ petition, his assistance has been sought. He produced a copy of *Rapat Roznamcha* No.57 dated 26.10.1995, as per which the possession of the land in question stands handed over to the respondents on 26.10.1995. The State counsel, also submitted that the amount of compensation is lying deposited in CCF HSVP Account.

The Constitution Bench of Hon'ble Apex Court in **Indore Development Authority vs. Manoharlal and others, AIR 2020 (SC) 1496**, has held that '*the act of vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances*'. The Hon'ble Apex Court further clarified that in case possession has been taken, compensation has not been paid, then there is no lapse. Similarly, if compensation has been paid, possession has not been taken, then also there is no lapse. The Hon'ble Apex Court further clarified that Section 24(2) of the Act of 2013 cannot be used to revive dead and stale claims and concluded cases.

In the present case, impugned Award was passed on 26.10.1995, meaning thereby that the claim raised by the petitioners in the present writ petition is stale. Also, as the possession stands taken, the lapsing under Section 24(2) of the Act of 2013 could not be sought in the present case by the petitioners. Consequently, this writ petition is hereby dismissed being devoid of merits.

25.02.2021

Gaurav Sorot

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No