

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

CWP-5575-2021

Date of Decision:-17.03.2021

Jeet Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present:- Mr. Sanjiv Gupta, 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 petitioner has challenged Notification dated 23.2.1989
(Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894
(hereinafter to be referred as 'Act of 1894'), Notification dated 22.2.1990
(Annexure P-4) issued under Section 6 of the Act of 1894 and Award No.13
of 1991-92 dated 21.02.1992 (Annexure P-5) qua the property in question
situated in Arya Nagar, Panipat, by invoking the writ jurisdiction of this

Court, with further prayer for staying the dispossession of the petitioner from the aforesaid property and to restrain the respondents from demolishing the structure existing at the spot.

The State counsel who was having advance copy of the writ petition, has been asked to assist the Court. He produced the copy of *Rapat Roznacha* No.276 dated 21.02.1992.

We have heard the counsel for the petitioner.

The counsel for the petitioner submitted that after the issuance of impugned Notifications Annexures P-2 & P-4, the Land Acquisition Collector passed impugned Award dated 21.02.1992 (Annexure P-5). The learned counsel further submitted that the petitioner is an old person, who was uprooted from Pakistan at the time of partition of the country. He came to Panipat and occupied the property in question comprised of Khasra No.3756. He constructed his house at the spot, much before the starting of aforesaid acquisition proceedings. It was further contended that even now the petitioner is staying there. The counsel for the petitioner referred to the photographs and the electricity bills to establish this fact. The counsel for the petitioner further contended that no compensation was ever paid to the petitioner by the respondents with regard to alleged acquisition of his property. The counsel for the petitioner further argued that the acquisition proceedings qua subject building stands lapsed as the physical possession of the same is with the petitioner and no compensation was ever paid to him by the Land Acquisition Collector.

The learned counsel further argued at this point of time the land/property of the petitioner is not required by the Government for any

purpose. This being the position, the house of the petitioner along with proportionate open area deserves to be released from acquisition in the light of the judgment dated 7.10.2013 rendered by the Division Bench of this Court in **CWP-5029-1992** titled as **Kaushal & others vs. State of Haryana and another**, on the basis of Government Policy dated 26.10.2007.

We have considered the submissions made by the counsel for the petitioner.

Admittedly, the impugned Notification (Annexure P-2) was issued on 23.2.1989 and thereafter the impugned Notification (Annexure P-4) was published on 22.2.1990, which culminated into impugned Award dated 21.2.1992 (Annexure P-5).

The law regarding lapsing of acquisition has been laid down by the Constitution Bench of the Hon'ble Apex Court in **Indore Development Authority vs. Manoharlal and others, 2020 AIR (SC) 1496**, wherein the Hon'ble Supreme Court observed as follows:-

“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 Constitutional Bench of Supreme Court in the aforesaid judgment further held as under:-

“When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. 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 Supreme Court further clarified in the aforesaid judgment that on the big chunk of land or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Hon’ble Apex Court further observed that a person with a title is considered to be in actual possession. The other person is a trespasser.

As per the petitioner his residential house is there in the subject land having Khasra No.3756. The petitioner failed to produce any document with regard to ownership of the subject land/house. The petitioner has placed on record copy of *Jamabandi* for the year 1998-99 (Annexure P-7). As per the said revenue record Khasra No.3756 was recorded to be owned by Central Government and shown to be in possession of Sehari Vikas Pradhikaran Department. Also as per the *Rapat Roznamcha* No.276 dated 21.2.1992, the possession of the land/property bearing Khasra No.3756 along with other acquired land was taken over by the Land Acquisition Collector on 21.2.1992. After the vesting of the land in the State, its total control lies with the State. Thus making it clear that the possession, if any of the petitioner over subject land/house is only in the capacity of trespasser. In view of the aforesaid, we are of the view 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.

It is pertinent to mention that the petitioner has also sought release of his land/property from acquisition on the basis of the judgment passed in **Kaushal's** case (supra). The decision rendered in **Kaushal's** case (supra) was based on the Government Policy dated 26.10.2007. The relevant extract of the Policy was reproduced in the supra judgment which specifically provided that no request for release of property from acquisition is to be considered after one year of Award. Also only those requests would be considered by the Government where objections under Section 5-A of the Act of 1894 were filed.

In the case in hand, the petitioner has failed to produce any document to show that he ever filed objections under Section 5-A of the Act of 1894. He has also failed to establish that he made any request for release of his property from acquisition, within one year of the Award. So, the judgment passed by the Division Bench of this Court in **Kaushal's** case (supra) is not of any help to the petitioner.

For all the aforementioned reasons, there is no merit in the writ petition and it is dismissed as such.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

17.03.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No