

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

CWP-8887-2020

Date of Decision:-23.03.2021

Dhanpat Singh 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. Abhimanyu Singh, 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 petitioners have impugned notices dated 17.03.2020,
Annexure P-2 (Colly.) issued by respondent No.3-The Collector-cum-Estate
Officer, Haryana Urban Development Authority, Gurugram, whereby the
petitioners have been directed to vacate their premises which is part of Killa
No.28/26.

It is pleaded case of the petitioners that previously their
predecessors-in-interest were in possession of the land in question, in which

they constructed residential house, well before 1954. In 1983 the Gram Panchayat of the village through its Sarpanch filed an ejectment application under the Punjab Village Common Land (Regulation) Act, 1961 before the Assistant Collector Ist Grade, Gurugram against the predecessors-in-interest of the petitioners. The application was allowed by order dated 5.4.1983. However, the appeal filed against the said order was accepted by the District Collector, Gurugram by order dated 13.9.1983 (Annexure P-1). In the meantime, Government started proceedings to acquire the land including the property in question. Notifications under Section 4 dated 13.11.1981 and under Section 6 dated 30.1.1984 of the Land Acquisition Act (for short 'the Act'), were issued. Finally Award dated 26.12.1984 was passed by the Land Acquisition Collector. However, till date neither any compensation was paid nor the possession of the property was taken over by the Government. The aforesaid acquisition proceedings have already lapsed. Now after lapse of more than 36 years the Government has got no right to ask the petitioners to vacate the property in question.

On notice of motion, written statement was filed on behalf of respondents No.2 and 3 contesting the claim of the petitioners. Short reply by way of affidavit of Mr. Satish Yadav, Land Acquisition Officer on behalf of respondent No.1 was separately filed.

We have heard the counsel for the parties.

The counsel for the petitioners *interalia* contended that the petitioners are in lawful possession of the property in question since long. Their predecessors-in-interest constructed residential house in the said property, even prior to 1954. The acquisition proceedings which culminated

into Award dated 26.12.1984, have lapsed with passage of time. Even at present, the petitioners are in lawful possession of the property in question. Also no compensation was ever paid to them by the Government, with regard to Award dated 26.12.1984, which has already lapsed qua the property in question. The counsel for the petitioners while referring to impugned notices dated 17.3.2020 submitted that they are totally illegal. The respondents have got no right to interfere into the peaceful possession of the petitioners over the property in question. The impugned notices deserve to be cancelled.

On the other hand, the State counsel submitted that Award dated 26.12.1984 with regard to big chunk of land including the property in question, has already attained finality. The petitioners remained silent for the last more than 36 years and did not challenge the aforesaid acquisition proceedings. The State counsel further contended that with the passing of the Award dated 26.12.1984, the entire acquired land including the property in question vests in the State Government. It was further contended that the possession if any of the petitioners over the property in question is that of trespassers. The Government has got every right to evict them from the property in question. Accordingly, impugned notices were issued to the petitioners to vacate the premises.

We have considered the submissions made by the counsel for the petitioners and State counsel.

Admittedly in the present case, the acquisition was by way of Notification under Section 4 dated 13.11.1981 followed by Notification under Section 6 dated 30.1.1984, which culminated into Award dated

26.12.1984. As per the respondents, the possession of the entire acquired land including land in question was taken over by the Government vide *Rapat* No.228 dated 26.12.1984. Also, as per the written statement filed on behalf of respondents No.2 & 3, the compensation with regard to land in question, which was lying vacant as ‘*Gatwar*’ at the relevant time, was paid to the Gram Panchayat it being the owner.

We are of the view that the petitioners have failed to establish that acquisition proceedings which culminated into Award dated 26.12.1984 have lapsed. The law regarding lapsing of acquisition has been expounded in **Indore Development Authority vs. Manoharlal and others, 2020 AIR (SC) 1496**, wherein the Constitution Bench of the Hon’ble Apex Court observed that drawing of a ‘*Panchnama*’ is an accepted mode of taking possession. When the State has acquired the land and Award has been passed, the 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 in **Indore Development Authority’s** case (*supra*) further 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 Hon’ble Supreme Court in the aforesaid judgment further held that Section 24 of the Right to Fair Compensation and Transparency in

Land Acquisition, Rehabilitation and Resettlement Act, 2013 cannot be used to revive dead and stale claims and concluded cases.

The view taken in Indore Development Authority's case (supra) has been reiterated by two Judges Bench of the Hon'ble Apex Court in Civil Appeal No.251-252 of 2021 titled as Assam Industrial Development Corporation Ltd. vs. Gillapukri Tea Company Limited & Ors. decided on 28.1.2021 to the effect that once possession is taken by the State, the land vests absolutely with the State and the title of the land owner ceases.

In the light of the aforesaid settled position of law, the possession, if any of the petitioners over the property in question is that of a trespassers. The petitioners being trespassers have got no right to retain the possession of the property in question. Thus, there is no illegality or perversity in the impugned eviction notices.

The writ petition being devoid of merits, is hereby dismissed.

Needless to say that the petitioners at the most could claim compensation on the basis of their possessory interest over the land in question, at the relevant point of time.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

23.03.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No