

CWP No.13661 of 2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13661 of 2014

Date of Decision: 15.09.2021

Kanwar Pal Singh & others

...Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: None for the petitioners.

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

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, petitioners have challenged notification dated 30.05.2005 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 22.05.2006 (Annexure P-2) issued under Section 6 of the 1894 Act and the award No.25 dated 16.07.2007 with a prayer for release of their land as per Section 24 (2) of the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act').

2. It has been pleaded by the petitioners that in the light of the provisions as contained in Section 24 (2) of 2013 Act, respondents have not taken the physical possession of the land which would render the land of the petitioners, as has been acquired vide award dated 16.07.2007, liable to be released. It is asserted that the land acquisition proceedings under 1894 Act

would lapse. It has been also pleaded that as per the information sought under the Right to Information Act, land of petitioner No.1 has been acquired measuring 25K-13M but the compensation has been sought to be paid to him for the land measuring 16K-10M only. On this basis, it has been asserted that the notifications dated 30.05.2005 (Annexure P-1) and dated 22.05.2006 (Annexure P-2) as also the award No.25 dated 16.07.2007 cannot sustain and deserve to be set aside.

3. On the other hand, learned counsel for the respondents submits that for applicability of Section 24 (2) of 2013 Act, which would entitle the petitioners 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 written statement which has been filed by the Land Acquisition Collector, Urban Estate Department, Haryana, Faridabad, dated 21.01.2016, wherein it has been stated that the possession of the land was taken and handed over to HUDA vide Rapat No.1995, dated 16.07.2007, after the passing of the award dated 16.07.2007. It has further been stated that the petitioners are co-sharers in Khewat No.36, Khatauni No.42-75 (194K-6M), out of which land measuring 123K-17M was acquired.

4. As regards the amount of compensation, it is asserted that out

of the total amount of the award of ₹24,29,61,611/-, an amount of ₹17,76,67,687/- has already been disbursed. It has been further mentioned that the petitioners have already received the compensation amount as per the details mentioned in para 6 of the preliminary submissions of the written statement filed by respondent no.4. It has been specifically mentioned in the written statement that petitioners No.2 to 6 have received the balance amount of award compensation on 31.12.2014 vide cheques No.517664 and 517666 to 517669 and nothing against them is due now. Further, in para 8 of the reply on merit, it has been stated that total amount of compensation for the acquired land of petitioner No.1 measuring 17K-9M is ₹67,92,725/-, out of which he has already received an amount of ₹64,16,240/- for land measuring 16K-10M and an amount of ₹3,76,485/- is still pending for remaining land of 19 marla which can be obtained by him at any time.

5. His further contention is that the planning of the acquired land has already been finalized by the HUDA. The layout plan of Sector 22, 23 and 24 was approved in June 2012 vide Drawing No.281 of August, 2011 and therefore, the land of the petitioners cannot be released. Since the compensation amount has been duly received by the petitioners and further, the possession has been taken vide Rapat No.1995, dated 16.07.2007, the deemed lapsing of acquisition under Section 24 (2) of 2013 Act would not apply. The writ petition, therefore, deserves to be dismissed.

6. We have considered the submissions made by the learned counsel for the respondents and with his 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).

7. The facts, as has been narrated above, have not been disputed. Notifications under Sections 4 and 6 of the 1894 Act were issued on 30.05.2005 and 22.05.2006 respectively, leading to the passing of the award dated 16.07.2007. Petitioners 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 taking of possession through Rapat Roznamacha entry has been held to be a valid mode of taking possession of land. 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.1995, dated 16.07.2007, 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.

8. As regards the compensation amount is concerned, it has been stated that out of the total amount of the award of ₹24,29,61,611/-, an amount of ₹17,76,67,687/- has already been disbursed. The petitioners have already received the compensation amount as per the details mentioned in para 6 of the preliminary submissions of the written statement filed by respondent no.4. It has further been stated that petitioners No.2 to 6 have received the balance amount of award compensation on 31.12.2014 vide cheques No.517664 and 517666 to 517669 and nothing against them is due

now. Further, in para 8 of the reply on merit, it has been stated that total amount of compensation for the acquired land of petitioner No.1 measuring 17K-9M is ₹67,92,725/-, out of which he has already received an amount of ₹64,16,240/- for land measuring 16K-10M and an amount of ₹3,76,485/- is still pending for remaining land of 19 marla which can be obtained by him at any time. Merely because petitioner No.1 has not collected a part of amount of compensation, it would not entitle the petitioners to assert that the compensation has not been disbursed to them.

9. It has been stated in para 8 of the preliminary submissions of the written statement that the petitioners had filed a reference which was sent to the Additional District Judge, Jagadhari, for adjudication, where an award dated 11.01.2014 in LAC No.194 of 2010 has been passed and determined the enhanced compensation at the rate of Rs.1560/- per square meter. The amount of enhanced compensation has also been disbursed to the petitioners through RTGS on 16.03.2015 (Annexure R/2). Once the amount of compensation has been received by the petitioners and also filed a reference for enhancement of compensation, they cannot take the benefit by asserting that there is a lapse of proceedings.

10. In para 15 of the preliminary submissions of the written statement, mentioning of wrong details of land has been admitted and submitted that due to inadvertent clerical mistake, area of petitioner's land has been mentioned as 25K-13M in reply to application under Right to Information Act instead of 16K-10M and therefore, stand taken by respondent in the written statement filed before the Civil Court regarding acquired land of the petitioner is correct.

11. 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).

12. That apart, since the planning of the acquired land has already been finalized by the HUDA and layout plan of Sector 22, 23 and 24 approved in June, 2012 vide Drawing No.281 of August, 2011, the land of the petitioners, in any case, cannot be released as it would directly affect the approved planning.

13. 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

15.09.2021
Harish

(ASHOK KUMAR VERMA)
JUDGE

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