

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11861-2018

Date of decision:11.11.2021

Varinder Sandhu

....Petitioner

V/s.

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl.A.G., Haryana with
Mr. Saurabh Mago, A.A.G., Haryana.

Ritu Bahri, J.

The petitioner is seeking quashing of notification dated 02.01.2002 issued under Section 4 of the Land Acquisition Act, 1894 (Annexure P-1) and the notification dated 24.12.2002 issued under Section 6 of the Land Acquisition Act, 1894 (Annexure P-2) vide which his land has been acquired and the award was passed on 21.12.2004 and further directing respondents to release the complete constructed area i.e. residential house alongwith other subsequent land as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act, 2013').

The main ground of challenge in the present writ petition is that keeping in view Section 24(2) of the Act, 2013, acquisition proceedings have lapsed as possession has not been taken.

Reply by way of affidavit of Sukhbir Singh, Land Acquisition Collector, Urban Estate, Panchkula on behalf of the State has been filed in

Court. It is stated therein that the present writ petition was adjourned *sine die* vide order dated 29.01.2019 awaiting decision of the ***SLP(C)9036-9038 of 2016*** titled as ***Indore Development Authority v. Manoharlal and others*** which has been decided now. The relevant portion of the judgment is reproduced hereunder:-

1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.
2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.
3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, 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 there is no lapse.
4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of

1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

It is further stated therein that out of the total amount of the award i.e. Rs.188267658, amount of Rs.146994730 has already been disbursed and the rest of the amount is lying deposited in the LAC Account i.e. Rs.41272928 of the compensation has been disbursed to the landowners. The amount of compensation due to the petitioner is Rs.31057 and he has not lifted the compensation amount. Father of the petitioner is owner of Khasra No.6875 and the petitioner is not owner of Khasra No. 7307 as this land has been recorded as Shamlat land.

Learned counsel for the petitioner submits that even though Khasra No. 7307 has been recorded as Shamlat land, the petitioner has right to claim compensation as he is shown to be proprietor of Khasra No. 7307. The petitioner had earlier filed **CWP No. 26032 of 2012** for release of his constructed area and pursuant to order dated 21.08.2013, land measuring 374 square yards was released and rest of the land acquisition proceedings have now attained finality. Since possession has already been taken vide Rapat No. 324 dated 21.12.2004, the acquisition proceedings cannot be lapsed qua the land of the petitioner as per the Supreme Court judgment passed in **Indore Development Authority's case (supra)**.

Learned counsel for the State has referred to judgments passed

by this Court with respect to same acquisition whereby following writ petitions have been dismissed keeping in view *Indore Development Authority's case (supra)*:-

1. *CWP-23935-2016* titled as *Asha Rani Vs. State of Haryana*, decided on 17.11.2020
2. *CWP-16037-2014* titled as *Sukhpal Singh and others Vs. The State of Haryana and others*, decided on 17.11.2020
3. *CWP-16909-2015* titled as *Sanjeev Kumar Vs. The State of Haryana and another*, decided on 17.11.2020
4. *CWP-16939-2015* titled as *Ishwar Singh Vs. The State of Haryana and another*
5. *CWP-2487-2017* titled as *Raj Kumari and others Vs. State of Haryana and others*, 25.02.2021

With these observations, writ petition is dismissed. However, petitioner is at liberty to approach concerned Land Acquisition Collector in accordance with law to collect the due compensation.

(RITU BAHRI)
JUDGE

11.11.2021
Divyanshi

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No