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CWP No.22021 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22021 of 2018

Date of Decision: 08.09.2021

General Rubber Company Private Limited

...Petitioner

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 petitioner.

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

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, General Rubber Company Private Limited (hereinafter referred to as 'company') has approached this Court for quashing the order dated 11.01.2018 (Annexure P-22) passed by the Chairman-cum-Zonal Administrator, HUDA-cum-Additional Director, Urban Estate, Faridabad – respondent No.6, under notification dated 22.05.2015 (Annexure P-12), whereby, representation of the petitioner – company for release of its 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') has been rejected.

2. It has been asserted by the petitioner – company in the writ petition that earlier also, land of the petitioner - company was sought to be acquired in the year 1964 but upon representation, the same was de-notified

vide letter dated 31.12.1965 (Annexure P-3). Again, the land of the petitioner – company was subjected to acquisition vide notification dated 01.10.1973 (Annexure P-4) but the same was made to lapse by the State Government as no further steps were taken to complete the acquisition process.

Again the land of the petitioner – company measuring 11 kanal and 6 marla has been sought to be acquired vide notification dated 04.11.1977 (Annexure P-5) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 01.11.1980 (Annexure P-6) issued under Section 6 of the 1894 Act and the award dated 18.11.1982. Challenging the said notifications and award, petitioner – company had preferred a writ petition i.e. CWP No.1835 of 1984, which was dismissed by this Court vide order dated 21.07.2010 (Annexure P-10). The said order was challenged before the Hon'ble Supreme Court by filing SLP No.35138 of 2010, which also stood dismissed.

3. Thereafter, when when possession was taken by the respondents, petitioner – company had again approached this Court by filing CWP No.15313 of 2015 praying abatement of acquisition proceedings, which was disposed of vide order dated 29.07.2015 (Annexure P-11) with liberty to the petitioner – company to move a detailed and comprehensive representation before the appropriate authority, which was to be considered and decided by passing a speaking order.

Petitioner – company, in pursuance to the above order, moved a representation dated 18.09.2015 (Annexure P-13), which was not responded.

Petitioner – company then filed a contempt petition i.e. COCP No.3456 of 2017 for non-compliance of the order passed by this Court, notice of which was issued to the respondents for 14.02.2018 but before the said date, representation of the petitioner – company, dated 18.09.2015 (Annexure P-13) was rejected vide impugned order dated 11.01.2018 (Annexure P-22).

The petitioner – company has asserted that in the light of the provisions as contained in Section 24 (2) of 2013 Act, respondents having neither taken physical possession of the land nor compensation in respect of the land having been paid/offered, would render its land acquired vide award dated 18.11.1982 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the petitioner – company has constructed a factory structure thereon and have a running business. It is asserted that the land acquisition proceedings under 1894 Act would lapse. Petitioner – company, on this basis, asserts that the order dated 11.01.2018 (Annexure P-22) cannot sustain and deserves to be quashed.

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 reply which has been filed by way of an affidavit of Land Acquisition Collector, Urban Estate Department, Haryana, Faridabad, dated 16.02.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.111, dated 18.11.1982. It has further been asserted that out of total amount of award of Rs.28.10.765/-, an amount of Rs.24,11,917/- has been disbursed and rest of the amount is lying deposited in the LAC account. So far as the amount of compensation qua the land owned by the petitioner – company which has been acquired, i.e. Rs.18,816/- is concerned, the petitioner – company has not lifted the same.

5. His further contention is that the land of the petitioner - company is very much essential to complete the development work as per the planning. The land of the petitioner affects the site of 49 plots of 2 marla category of Sector 31, Faridabad and therefore, the land of the petitioner – company cannot be released.

Since the compensation amount has been duly deposited with the Land Acquisition Collector and further, the possession has been taken vide Rapat No.111, dated 18.11.1982, 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. Petitioner – company has asserted itself to be the owner of land measuring 11 kanal and 6 marla and is 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.111, dated 18.11.1982, 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 specifically averred in the reply that out of total amount of award of Rs.28.10.765/-, an amount of Rs.24,11,917/- has been disbursed and rest of the amount is lying deposited in the LAC account. So far as the amount of compensation i.e. Rs.18,816 is concerned, the petitioner – company has not lifted the same. Merely because the petitioner - company has not collected the amount of compensation, it would not entitle the petitioner - company to assert that the compensation has not been disbursed to it.

9. 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).

10. It is pertinent to mention here that since the earlier writ petition i.e. CWP No.1835 of 1984 challenging the same very notifications and award stands dismissed by this Court vide order dated 21.07.2010 (Annexure P-10) and SLP preferred against the said order has also been dismissed by the Hon'ble Supreme Court vide order dated 01.02.2011, the prayer made by the petitioner – company in the present writ petition cannot be accepted in the light of the observations of the Hon'ble Supreme Court in *Indore Development Authority's* case (supra), where, in paras 359 and 363 (9), it has been held that if the acquisition of land had earlier been challenged and the same has been upheld, the proceedings having been concluded, the umbrella of protection provided under Section 24(2) of the 2013 Act, cannot be invoked and it does not revive stale and time barred claims especially when it has been held in the earlier part of the judgment that after passing of the award, possession of the land has been taken vide Rapat No.111, dated 18.11.1982 and the amount of compensation has already been deposited with the Land Acquisition Collector, leading to the land having been vested in the State in accordance with law.

11. That apart, since the land of the petitioner affects the site of 49 plots of 2 marla category of Sector 31, Faridabad and therefore, the land of the petitioner – company cannot be released as it would directly affect the planning.

12. 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

08.09.2021
Harish

(ASHOK KUMAR VERMA)
JUDGE

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