

CWP No.22705 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22705 of 2018

Date of Decision: 08.09.2021

Satbir Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

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

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Atul Ravish, Advocate, for the petitioner.

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

AUGUSTINE GEORGE MASIH, J.

By filing the present writ petition, petitioner has challenged notification dated 12.05.1995 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'), notification dated 10.05.1996 (Annexure P-4) issued under Section 6 of the 1894 Act and the award dated 24.04.1998 (Annexure P-5) as also the notice dated 02.08.2018 (Annexure P-11) issued by the Estate Officer, Haryana Shehri Vikas Pradhikaran (HSVP), Bahadurgarh, District Jhajjar – respondent No.3 for vacation of the land, with a prayer for release of his 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. Learned senior counsel for the petitioner asserts that the

petitioner had purchased a land measuring 150 square yards comprised in Khasra No.3836/2072 situated at Tikri Wala Gaunda, Near Drain, Bahadurgarh, vide registered sale deed bearing No.3119, dated 19.10.1989 (Annexure P-1). Counsel for the petitioner asserts 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 has the compensation been taken by the petitioner, this would render his land acquired vide award dated 24.04.1998 liable to be released, in view of Section 24 (2) of 2013 Act, especially when the petitioner has constructed his house thereon and is residing. It is asserted that the land acquisition proceedings under 1894 Act would lapse. Counsel for the petitioner, on this basis, asserts that the notification dated 12.05.1995 (Annexure P-3), notification dated 10.05.1996 (Annexure P-4) and award dated 24.04.1998 (Annexure P-5) as also notice dated 02.08.2018 (Annexure P-11) cannot sustain and deserve to be quashed.

3. On the other hand, learned counsel for the respondents submits that for applicability of Section 24 (2) of 2013 Act and entitlement of the petitioner to 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, Rohtak, dated 02.04.2021, wherein it has been stated that the possession of the land was taken vide Rapat No.313, dated 24.04.1998 and mutation No.8212/1A, dated 04.08.2010 was sanctioned in favour of the beneficiary department i.e. HSVP. Further, at the time when the notification under Section 4 was issued, the land of the petitioner was vacant.

4. It has further been asserted that total amount of award was Rs.21,85,15,090/- which was available with LAC for disbursement at the time of award and out of the said amount, Rs.20,03,60,710/- has already been disbursed and rest of the amount is still available for disbursement. So far as the amount of compensation due to the petitioner is concerned, i.e. Rs.12,924/-, the said amount was not lifted by him and petitioner may claim the same at any time.

Learned counsel for the respondents, referring para 5 of the reply, submits that the petitioner had filed a writ petition i.e. CWP No.8181 of 2002 challenging the acquisition proceedings, wherein he had mentioned that his acquired land comprises in Khasra No.3876/2072 as per the sale deed 19.10.1989, where reply to the writ petition was filed clarifying that Khasra No.3876/2072 has not been acquired, on which the said writ petition was dismissed as infructuous by this Court vide order dated 09.05.2003. He submits that perusal of sale deed dated 19.10.1989 (Annexure P-1) reveals that the petitioner has got corrected the Khasra No.3876/2072 to 3836/2072

vide supplementary/correction deed dated 14.08.2012. Since the land comprised in Khasra No. 3836/2072 has been acquired vide award dated 24.04.1998 and possession of the same has already been taken vide Rapat No.313, dated 24.04.1998, the land stands vested in the State.

5. His further contention is that the land of the petitioner is essential to complete the development work as per the planning as it affects the site of commercial town centre as per the development plan and therefore, the land of the petitioners cannot be released.

Since the compensation amount has been deposited with the Land Acquisition Collector and further, the possession has been taken vide Rapat No.313, dated 24.04.1998, 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 parties and with their 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 is asserting himself to be the owner of land measuring 150 square yards comprised in Khasra No.3836/2072 situated at Tikri Wala Gaunda, Near Drain, Bahadurgarh 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 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.313, dated 24.04.1998, 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 total amount of award was Rs.21,85,15,090/- which was available with LAC for disbursement at the time of award and out of the said amount, Rs.20,03,60,710/- has already been disbursed and rest of the amount is still available for disbursement. So far as the amount of compensation due to the petitioner is concerned, i.e. Rs.12,924/-, the said amount was not lifted by him and petitioner may claim the same at any time. Merely because the petitioner has not collected the amount of compensation, it would not entitle him to assert that the compensation has not been disbursed to him.

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).

11. That apart, since the land of the petitioner affects the site of commercial town centre as per the development plan and therefore, the land of the petitioner, in any case, cannot be released as it would directly effect the planning.

10. Earlier writ petition of the petitioner i.e. CWP No.8181 of 2002 challenging the same very acquisition proceedings, was dismissed as infructuous by this Court vide order dated 09.05.2003 on the ground that the Khasra No.3876/2072, acquisition of which stood challenged, was not acquired by the respondents. Now the petitioner has again approached this Court by way of present writ petition after getting correction done in the sale deed from Khasra No.3876/2072 to 3836/2072 vide supplementary/correction deed dated 14.08.2012 but his claim cannot be accepted because possession of the said Khasra No.3836/2072 has already been taken vide Rapat No.313, dated 24.04.1998 and the compensation amount assessed qua the acquired land of the petitioner amounting to Rs.12,924/- had been deposited, which has not been claimed and withdrawn by him, the land stands vested in the State.

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