

CWP No.22733 of 2018

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

CWP No.22733 of 2018**Date of Decision: 08.09.2021****Dharampal 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-10) 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. Counsel for the petitioners asserts that the petitioner had purchased land measuring 120 square yards comprised in Khasra No.3836/2072 situated in Shastri Nagar, Bahadurgarh, District Jhajjar, vide

registered sale deed bearing No.508, dated 14.05.1991 (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 amount been disbursed/paid, 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-10) 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, 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 04.08.20210 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 and he had not filed any objection under Section 5-A.

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.10,253/-, the said amount was received by the petitioner as has been admitted by him in para 4 of the writ petition. It has further been stated in the reply that some of the land was released in pursuance to the judgment dated 08.01.2003 (Annexure P-7) passed by the Hon'ble Supreme Court but the land of the petitioner comprising in Khasra No.3836/2072 was never released and despite his land not released, he re-deposited the compensation amount with the respondent.

5. His further contention is that the land of the petitioner 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 duly received by the petitioner, however, re-deposited the same 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 120 square yards comprised in Khasra No.3836/2072 situated in Shastri Nagar, Bahadurgarh, District Jhajjar 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. The amount of compensation due to the petitioner was Rs.10,253/- and the said amount was duly received by him, as has been admitted by him in para 4 of the writ petition. It has been specifically stated in the reply that some of the land was released in pursuance to the judgment dated 08.01.2003 (Annexure P-7) passed by the Hon'ble Supreme Court but the land of the petitioner comprising in Khasra No.3836/2072 was never released and despite his land not released, he re-deposited the compensation amount with the respondent. Merely because the petitioner asserts that he has redeposited the amount of compensation qua the land in question, it does not give him a right to take such a plea that he has not received the amount of compensation as there is no provision under the Land Acquisition Act, 1894, which would permit refund/re-deposit of such amount. That apart, in any case, the fact remains that the amount of compensation as assessed by the Award stands deposited with the Collector and was always available for disbursement to the petitioner, which he, as a matter of fact, had taken and therefore, as per the judgment in *Indore Development Authority's* case (supra), the claim of the petitioner cannot be accepted as the land stands vested in the State.

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 the petitioner has himself pleaded in the writ petition that earlier also, a notice dated 28.03.2012 was issued to the petitioner to vacate the land, against which he had filed a civil suit for permanent injunction which was dismissed by the Civil Judge (Junior Division), Bahadurgah, on 31.03.2016 and appeal against which also stands dismissed by the Addl. Distict Judge, Bahadurgarh, on 13.07.2018. After the dismissal of the civil suit and the appeal of the petitioner, respondents have issued the notice dated 02.08.2018 (Annexure P-10) for vacation of land, which is impugned in the present writ petition and therefore, the same cannot be quashed as the petitioner has already availed his remedy, in which he could not succeed.

As held above in paras 7 and 8, the land stands vested in the State because the possession of the same was taken vide Rapat No.313, dated 24.04.1998 after the passing of the award. Even the compensation amount stood deposited with the Land Acquisition Collector 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.

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