

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

CWP No.21435 of 2027
Date of decision: 30.11.2022

Omwati

...Petitioner

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Ajay Chaudhary, Advocate,
for Mr. R.S. Mamli, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana,
and Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J.

Petitioner is seeking quashing of the notifications dated 10.01.1983 and 17.12.1983 (Annexures P-1 and P-2) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short '1894 Act') along with the order dated 14.10.2016 (Annexure P-8) keeping in view the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'). Further prayer has been made to release of her land from acquisition. The impugned notifications were issued for setting up residential and commercial area in Sector 32-A, Gurgaon.

Case of the petitioner is that she had purchased the land in question from the original owner vide sale deed dated 23.04.1981 for sale consideration of Rs.6000/-. After purchasing the land, she had constructed

shops and residential house thereon. As per Jamabandi for the year 2001-

2002 (Annexure P-4), her name has been entered in the revenue record. Release of land from acquisition is being sought on the ground that possession of 06 Marlas of land has never been taken by the respondent.

Upon notice, short reply dated 27.01.2022, by way of affidavit of Land Acquisition Officer, Urban Estate Department, Gurgaon, has been filed, wherein it has been stated that after passing of the award on 21.09.1986, the entire amount of Rs.2,33,21,753.50/- was deposited with the Land Acquisition Collector, out of which, amount of Rs.2,28,15,169.18/- has been disbursed and rest of the amount of Rs.5,06,584.32/- is available for disbursement. Once, the compensation has been deposited, the acquisition cannot lapse as per Section 24 (2) of 2013 Act and judgment passed by Hon'ble the Supreme Court in **Indore Development Authority vs. Manoharlal and others**, SLP (C) No.9036-9038 of 2016 (decided on 06.03.2020). In the said judgment, Hon'ble the Supreme Court has categorically, observed that once possession has been taken and mode of *Rapat Roznamcha* is entered, the land vests absolutely in the State and it cannot be given back.

Heard. In the present case, possession of land was taken vide *Rapat* No.31 dated 21.09.1986 and it was handed over to HUDA i.e. The beneficiary department. Hence, physical possession of the land is already with the State. *Rapat Roznamcha* has been entered. In **Indore Development Authority's** case (supra), Hon'ble the Supreme Court observed that for the deemed lapse of acquisition under Section 24 (2) of 2013 Act, both the conditions i.e. payment of compensation and taking of possession must not be fulfilled. It was further observed that the word 'or' in Section 24 (2) of 2013 Act must be read as 'and'. It has been further observed as under:-

“99. In this Court's considered view, as regards the collation of words used in Section 24 (2), two negative conditions have been prescribed. Thus, even if, one condition is satisfied, there is no lapse, and this logically flows from the Act of 1894 read with the provisions of Section 24 of the Act of 2013. Any other interpretation would entail illogical results. That apart, if the rule of interpretation with respect to two negative conditions qualified by “or” is used, then “or” should be read as “nor” or “and”.

xxx xxx xxx xxx”

In the facts of the present case also, possession of the land has already been taken vide Rapat No.31 dated 21.09.1986 and entire award amount of Rs.2,33,21,753.50/- has been deposited with the Land Acquisition Collector, out of which, amount of Rs.2,28,15,169.18/- has been disbursed to the landowners. Thus, there can be no lapse of acquisition qua the land of the petitioner. Moreover, after tendering the entire compensation, the land vests in the State as per the judgment passed in **Indore Development Authority's** case (supra).

Resultantly, finding no merits, the present petition is dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

30.11.2022
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No