

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25235-2016

Date of decision:10.05.2022

Ram Avtar Mittal

...Petitioner

V/s.

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Sumeet Goel, Senior Advocate with
Mr. Akash Neeraj Vaid, Advocate
for the petitioner.

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

Ritu Bahri, J.

The Hon'ble Supreme Court vide Civil Appeal No. 2840 of 2022 dated 08.04.2022 has set aside the judgment dated 05.12.2017 passed by this Court in **CWP-25235-2016** titled as ***Ram Avtar Mittal Vs. State of Haryana and others*** and the parties have been relegated to appear before this Court so that the matter can be decided on merits in view of law laid down by the Constitution Bench in ***Indore Development Authority Vs. Manoharlal & Others, 2020(8) SCC 129***. The said petition was allowed by this Court and acquisition proceedings had been declared to have lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013')

In the present case, notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act, 1894') were issued on 16.12.1988 and 14.12.1989 respectively and the award was announced by the Land Acquisition Collector on 26.03.1992 qua the land

in question.

The grievance of the petitioner was that no compensation had been paid to him. His further case was that on the acquired land, the residential house was constructed before publication of the notification under Section 4 of the Act, 1894.

Learned counsel for the State did not dispute the fact that the construction on the acquired land was existed prior to the issuance of notification under Section 4 of the Act, 1894. Award was announced on 26.03.1992 qua the land in question, however the compensation was not paid to the petitioner as there was dispute regarding apportionment. The writ petition was allowed keeping in view Section 24(2) of the Act, 2013 which provides that acquisition of land would lapse in case where award had been announced by the Collector five years prior to the enactment of the Act, 2013 i.e. 01.01.2014 in case either the compensation for the acquired land had not been paid or the possession thereof had not been taken. The petitioner had not been paid the amount of compensation for the acquired land and he is still in possession of the constructed house.

Heard learned counsel for the parties at length.

The position with respect to acquisition of land, possession and payment of compensation has now been clarified by the Constitution Bench of the Hon'ble Supreme Court in ***Indore Development Authority's case (supra)***. As per the affidavit of the Land Acquisition Collector, Urban Estate, Gurugram, Haryana dated 03.12.2017, the award was announced on 12.12.1991 with respect to the land measuring 241.55 acres. The said land was to be used for public purpose, namely, for the development and utilization of land as Industrial Area in Sector-37, Gurugram. In para 5 of

the affidavit, it is stated that the compensation amount of Rs.6,01,04,472/- was deposited in favour of Land Acquisition Collector, Gurugram, out of which Rs.5,70,99,248/- (95% approximately) had been taken by the landowners and the balance amount of Rs.30,05,224/- was pending in the account of Land Acquisition Collector, Gurugram. The performa with respect to details of the acquisition in question is attached as Annexure R-1. In Annexure R-1, as per column No. 17, the possession was given to HUDA vide rapat No. 260 dated 12.12.1991 and the ownership was transferred in favour of HUDA vide rapat No. 260 dated 12.12.1991. In column No. 24, details of the writ petitions arising out of the same notification have been mentioned, which are as under:-

5976/1990 dismissed

5642/1990 dismissed

7092/1990 dismissed

3758/1990 dismissed

9141/1990 etc. dismissed

As per ***Indore Development Authority's case (supra)***, once the rapat roznamcha is entered after passing award, it will amount that possession has been taken from the landowners.

The above facts show that the total amount of compensation i.e. Rs.6,01,04,472/- was deposited in favour of Land Acquisition Collector, Gurugram, out of which Rs.5,70,99,248/- (95% approximately) had been disbursed to the landowners and the balance amount of Rs.30,05,224/- was lying in the account of Land Acquisition Collector, Gurugram. The possession was given to HUDA vide rapat No. 260 dated 12.12.1991 after passing of the award on 12.12.1991. Hence, once the compensation had been deposited, paid to the landowners and possession had been taken as

proceedings will not lapse if one of the conditions of Section 24(2) of the Act, 2013 is not fulfilled. Even if the possession is taken and award is not passed, still the acquisition proceedings would not lapse.

Hence, no case for setting aside the impugned notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 issued on 16.12.1988 and 14.12.1989 respectively, is made out.

Writ petition is hereby dismissed.

(RITU BAHRI)
JUDGE

10.05.2022
Divyanshi

(ASHOK KUMAR VERMA)
JUDGE

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