

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

CWP No. 686 of 2017 (O&M)

Date of decision:- 13.09.2022

Jaswant Singh &ors.

...Petitioner

Vs.

State of Punjab and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. S.S. Rana, Advocate, for the petitioners.

Ms. Anu Pal, Sr. DAG, Punjab

Ritu Bahri, J.

Petitioners are seeking issuance of direction to the respondents to place on record the copies of notifications issued under Section 4 and 6 of the Land Acquisition Act, as mentioned in the revenue record and mutation No. 2200 dated 22.04.1993 sanctioned on 05.08.1993 (P-1 and P-2) for the years 1988-89. Petitioners are further seeking direction to the respondents to place on record copy of award, if any passed by the concerned Land Acquisition Collector, awarding compensation to the land owners.

On notice of the petitioner, a reply by way of affidavit on behalf of respondent Nos. 1 to 6 has been filed. As per reply, the land in question was acquired in the year 1958 vide notification No. 12370ARI by P.W.D (B&R) Department for widening the road from Ropar to Balachaur and the Land Acquisition Collector/Competent Authority passed the Award on 14.01.1960. The compensation for the land acquired i.e. 5.61 acres was deposited/dispensed to the landowners/Petitioners/their predecessors-in-

Sudhamajara as envisaged in the Awarde Register (Annexure R-1).

On the basis of the above notification/Award, Mutation No.2200 was entered on 22.04.1993 and was sanctioned by the competent authority on 05.08.1993 and as such, the revenue records were updated. The land which remained under ownership of the landowners after excluding the acquired land, was shown in the revenue records accordingly. The possession of the acquired land is with the respondents, as per revenue records including Khasra Girdawari (Annexure R-II). The land of the petitioners and other villages abutting Ropar to Balachaur road was acquired and compensation was paid and also the Khasra Girdawari. The village Fatehgarh @ Sudhamajara is situated on this road ie. (Highway starting from Phagwara connecting Phagwara Bye Pass Banga, Nawanshahar, Balachaur and terminating at its junction with NH-205 near Rupnagar) is declared as National Highway (NH-344A) by MORTH vide notification dated 02.09.2014. This road is now under the jurisdiction of NHAI (National Highway Authority of India) and Upgradation/ Widening of this road is also done by NHAI, which is not the party in the present petition.

The above reply was filed way back on 15.02.2018 and no replication has been filed by the petitioners till date. Hence, the veracity of the reply as well as Annexures R-1 and R-2 is taken to be correct and as per this, the land of the petitioners has already been acquired and the award was also passed on 14.01.1960. The compensation has also been deposited. The land is now with PWD (B&R) Branch and is now under the jurisdiction of NHAI.

Heard learned counsel for the parties at length.

The writ petition is liable to be dismissed in terms of the

Authority v. Manoharlal and others, AIR 2020 SC 1496.

As regards applicability of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, the same has now been decided by the Hon'ble 5-Judge Bench of the Hon'ble Supreme Court in SLP (C) 9036-9038 of 2016 titled as ***Indore Development Authority v, Manoharlal and ors.*** The concluding paragraph of the said judgment is reproduced herein below for kind consideration:-

“1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24 (1)(b) of the Act of NO 2013 under the Act of 1894 as if it has not been repealed.

3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if the compensation has been paid, possession has not been taken then there is no lapse.

4. The expression 'paid' in the main part of 24 (2) the Act 2013 does not include deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 the Act 1894 shall be entitled to

compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation in Court does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31 (1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) Act of 2013 is treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24 (2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. Section 24(2) of the Act of 2013 does not give rise to new

cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, ie., 1.1.2014. It does not revive stale and time barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition'.

In para 359 of **Indore Development Authority (Supra)**, it has been observed that once the acquisition qua the land has already been upheld in the earlier round of litigation, the petitioner cannot invoke section 24(2) of the Act of 2013 claiming lapse of acquisition proceedings. The same is reproduced herein below for the kind consideration of this Hon'ble Court:

"359. We are of the considered opinion that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the Act of 2013. The provisions of Section 24 do not invalidate the judgments and orders of the Court, where rights and claims have been lost and negated. There is no revival of the barred claims by operation of law. Thus, stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In exceptional cases, when in fact, the payment has not been made, but possession has been taken, the remedy lies elsewhere if the case is not covered by the proviso. It is the Court to consider it independently not under section 24(2) of the Act of 2013."

Hon'ble the Supreme Court vide judgment dated 06.03.2020 passed in the SLP (C) 9036-9038 of 2016 titled as **Indore Development Authority v, Manoharlal and ors.** has categorically observed that the possession taken through mode of Panchnama and Rapat Roznamcha is a valid possession and once the possession is taken, the land vests absolutely with the State and cannot be given back.

Learned State counsel states that in terms of the judgment cited above, the present petition deserves to be dismissed as the acquisition proceedings have attained finality after passing of the award on 14.01.1960. Further the petitioners had approached this Court after a gap of almost 62 years. The land of the petitioner has already been acquired. Further the compensation qua the acquired land had already been deposited. The petitioners at this stage cannot seek release of land being a trespasser.

Keeping in view the above factual position, the present petition is dismissed, as the acquisition proceedings do not lapse as per section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as explained in ***Indore Development Authority (supra)***.

Since the main petition is dismissed, the civil miscellaneous applications, if any, shall also stand disposed of.

(RITU BAHRI)
JUDGE

13.09.2022
G Arora

(NIDHI GUPTA)
JUDGE

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