

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

CWP No.5639 of 2020
Date of decision: 05.08.2022

Surinder Miglani

...Petitioner

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Hitesh Ghai, Advocate,
for the petitioner.

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

Ritu Bahri, J.

Petitioner is seeking release of his land measuring 19 Kanals 16 Marlas, which has been acquired vide notifications dated 03.04.1962 issued under Section 4 and subsequent notification under Section 6 of the Land Acquisition Act, 1894 as well as award dated 15.03.1963.

Case of the petitioner is that after partition of the country, his father Sh. Charan Dass, who was born in the year 1945, had shifted to village Rer Kalan, Sub Tehsil Madholda, Tehsil and District Panipat. As per Jamabandis for the years 1958 to 2016 (Annexure P-1, Colly.), he was owner of the land since 1965, which was part of the acquisition proceedings, as referred to above. Sh. Charan Dass died in the year 2003 and after his death, petitioner was recorded as owner in possession of the said land on the basis of natural succession vide mutation dated 11.05.2009 (Annexure P-2). It was in the year 2017, when the petitioner came to know

that this land had been acquired by the Irrigation Department for the purpose of Guhana Distributory/Rajawaha Development in the year 1962. Award in respect of land measuring 45.41 acres, situated in village Rer Kalan, was passed on 15.03.1963 (Annexure P-3), vide which, compensation of Rs.15,792.46 was awarded. Father of petitioner, namely Sh. Charan Dass was also given compensation amounting to Rs.675.74 through the Land Acquisition Collector, Ambala, which was received by him after putting his thumb impression. The petitioner made complaint No.252 of 2017 before the Lokayukt, Haryana, stating that a fraud had been played upon his father Sh. Charan Dass by the Irrigation Department and no compensation was ever received by his father during his lifetime. In the said proceedings, the Irrigation Department took a specific stand that as per record, Sh. Charan Dass son of Raju Mal had received compensation of Rs.675.74 after affixing his thumb impression. Copy of register has been attached as Annexure P-4. Before the Lokayukat, Haryana, petitioner had placed on record sale deed (Annexure P-5) to show that Charan Dass used to sign and he never put his thumb impression. He also examined one Sukhpreet Kaur, Forensic Finger Print and Handwriting Expert, who gave her report dated 08.01.2018 (Annexure P-6), stating that the questioned thumb impression on the register was not of Sh. Charan Dass. It was further stated that thumb impressions at serial Nos. 15 and 20 had been affixed by one and the same person. As per the report dated 28.09.2018 (Annexure P-7) prepared by the Registrar, Lokayukat, Haryana, compensation of Rs.674.75/- was paid to the father of the petitioner/complainant in lieu of his acquired land and he had put his thumb impression in the presence of Lamberdar. It was observed that the allegation of the petitioner that

compensation was not paid and the entry did not bear the thumb impression of his father could not be investigated as the complaint was time barred. Ultimately, vide order dated 20.12.2018 (Annexure P-8), the complaint filed by the petitioner was dismissed as withdrawn with liberty to take all the pleas in accordance with law.

The petitioner is seeking release of his land under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the ground that possession of the land remained with him and even mutation was sanctioned in his favour. After the death of Sh. Charan Dass, land was mutated in favour of the petitioner on the basis of natural succession and no objection was raised by the respondent-State at any stage. Out of 9 Kanals 16 Marlas of land owned by Sh. Charan Dass, the respondents have not taken possession of remaining 5 Kanals 16 Marlas. Keeping in view that neither possession has been taken nor compensation has been paid, release of land under Section 24 (2) of aforesaid Act is being sought.

A perusal of the Register (Annexure P-4) shows that against the name of Sh. Charan Dass, who was owner of the land, payment has been taken by his wife Smt. Maya Bai by affixing her thumb impression. Thumb impressions of Smt. Maya Bai were taken as 'Q-1' and 'Q-2' at serial number 20 and 15 respectively of Annexure P-4. As per report dated 08.01.2018 (Annexure P-6) submitted by Smt. Sukhpreet Kaur, Fingerprint and Handwriting Expert, thumb impression on the register were of the one and the same person i.e. Maya Bai. A perusal of the report dated 28.09.2018 (Annexure P-7) prepared by the Registrar, Lokayukat, Haryana, shows that compensation was paid to the father of the petitioner/complainant in lieu of

his acquired land and he had put his thumb impression in the presence of Lamberdar. As per the enquiry report, no proof was produced that father of the petitioner used to sign and he did not use to put his thumb impression. Moreover, after acquisition, father of the petitioner did not approach any authority stating that he had not received the compensation. The complaint was made before the Lokayukat, Haryana after the lapse of 34 years and it was barred by delay and laches, therefore, it was dismissed vide order dated 20.12.2018 (Annexure P-8). While dismissing the complaint, it was also observed that the petitioner had not filed any objection to the report dated 28.09.2018 (Annexure P-7) prepared by the Registrar, Lokayukat, Haryana.

Now, the petitioner is seeking release of his land under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which provides that the acquisition of land would lapse in cases, where the award had been announced by the Collector five years prior to the enactment of the 2013 Act 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.

In the present case, award was passed way back on 15.03.1963 and the petitioner has challenged the acquisition proceedings, by filing the present petition, in the year 2020 i.e. after a gap of 57 years. As far as provisions of Section 24 (2) of the 2013 Act are concerned, reference can now be made to the latest judgment passed by the Constitution Bench of Hon'ble the Supreme Court in **Indore Development Authority vs. Manoharlal & others**, (2020) 8 SCC 129, wherein it has been observed that once possession has been taken by the Government and Rapat Roznamcha has been entered, the land vests with the State. In that eventuality, the

acquisition would not lapse.

In the present case, since possession has been taken over by the respondent-authorities and compensation has been taken by the father of petitioner or Maya Bai, as reflected in Annexure A-4, the acquisition proceedings are not lapsed. Father of the petitioner could have raised his plea regarding release of the land at the time when the award was passed way back in the year 1963. Now, the petitioner cannot challenge the acquisition proceedings after the delay of almost 57 years. Moreover, after accepting the 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

(ASHOK KUMAR VERMA)
JUDGE

05.08.2022
ajp

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