

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

1. Date of decision: 06.12.2022
CWP No.37679 of 2019 (O&M)

Anand Singh and anothers ...Petitioners

Vs.

Union Territory, Chandigarh and others ...Respondents

2. CWP No.37617 of 2019 (O&M)

Gurmeet Singh and anothers ...Petitioners

Vs.

Union Territory, Chandigarh and others ...Respondents

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

Present: Mr. S.K. Daaria, Advocate,
for the petitioners.

Mr. Anil Mehta, Standing Counsel,
for U.T., Chandigarh.

Ritu Bahri, J.

This order shall dispose of CWP-37679-2019 and CWP-37617-2019 together as common questions of law and facts are involved in both the petitions and both have arisen out of same notifications as well as award. For reference, facts are being taken from CWP-37679-2019.

Petitioners are seeking quashing of the notifications dated 04.05.2000 and 03.05.2001 (Annexures P-2 and P-3) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short '1894 Act') along with the award dated 21.03.2003 (Annexure P-4). Further prayer has been made

Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act').

The impugned notifications were issued for a public purpose namely, for “development of 3rd Phase Sector” in Chandigarh.

Case of the petitioners is that they are co-owners in possession of land measuring about 49 Kanals 04 Marlas, situated in the revenue estate of village Kajheri, U.T., Chandigarh, as detailed in para No.3 of the petition, as per Jamabandis for the year 1988-89 (Annexure P-1, colly.). Release of land from acquisition is being sought on the ground that acquisition qua the land of the petitioners has lapsed in view of Section 24 (2) of 2013 Act.

Upon notice in **CWP-37679-2019**, reply by way of affidavit dated 01.12.2022 of Land Acquisition Officer, Union Territory, Chandigarh, has been filed. Same is taken on record. As per this reply, possession of the land in question was handed over to the Engineering Department, U.T., Chandigarh on 12.03.2007. Thus, due possession of the land stands taken and it is vested in the State free from all encumbrances. It is further stated that after passing of award, entire compensation has been received by the landowners, namely Gurdev Singh and Jarnail Singh vide cheque No. 132390 dated 26.03.2003 amounting to Rs.57,33,113/- and Cheque No.13238 dated 26.03.2003 amounting to Rs.5,33,390/-. Once, the compensation has been received by the landowners, 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.

Similarly, in **CWP-37617-2019**, respondents have filed reply by way of an affidavit dated 02.12.2022 the the Land Acquisition Officer, Union Territory, Chandigarh, which is taken on record. In this reply also, it has been stated that after passing of the award dated 21.03.2003, Gurmeet Singh son of Naurata Singh has received compensation on 23.03.2003 to the tune of Rs.23,21,424/- vide cheque No.131953 dated 23.03.2003 and Jawala Singh has received the compensation of Rs.2,68,372/- vide cheque No.131958 dated 23.03.2003. Possession of the land in question was handed over to the Engineering Department, U.T., Chandigarh, on 12.03.2007.

The above said fact is not being disputed by learned counsel for the petitioners.

Heard. In the present cases, possession of land was taken over by the Engineering Department, U.T., Chandigarh on 12.03.2007. Hence, physical possession of the land is already with the respondent-U.T. 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”.

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xxx”

In the facts of the present cases also, possession of the land has already been taken by the respondent-department on 12.03.2007. Thus, there can be no lapse of acquisition qua the land of the petitioners. Moreover, after receiving the entire compensation by the petitioner(s), the land vests in the State as per the judgment passed in **Indore Development Authority's** case (supra).

Resultantly, finding no merits, both the petitions i.e. CWP-37679-2019 and CWP-37617-2019 are dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

06.12.2022
ajp

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