

2024:PHHC:139534-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

CWP-17531-2019
Decided on : 24.10.2024

Rakesh Kumar & others

.....Petitioner(s)

Versus

State of Haryana& others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICEDEEPAK GUPTA**

Present: Mr.GauravMohunta, Mr.Yashasvi Goyal, Advocates,
for the petitioners

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

Mr.Ankur Mittal, Advocate
Ms.KushaldeepK.Manchanda, Mr.Siddhant Arora, Advocates, for
respondent-HSVP.

G.S. Sandhawalia, J. (Oral)

1. Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the acquisition proceedings initiated on 08.03.1989 (Annexure P-3), the declaration under Section 6 (Annexure P-4) and the award dated 18.03.1991 (Annexure P-9).

2. A speaking order dated 15.09.2017 (Annexure P-9) was also passed by the Zonal Committee on account of the fact that the petitioners had approached this Court in CWP-5250-2016 titled *Rakesh Kumar & others Vs. State of Haryana & others*, which was disposed of on 18.03.2016 on the ground that representation date 18.11.2015 had been filed and the same is also under challenge.

3. The only objection in the said representation dated 18.11.2015 (Annexure P-7) was that the proceedings had lapsed on account of Section 24(2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 and therefore, the land had to be released. It was, in such circumstances, the authorities passed the order while noticing that the land of Villages Gurgaon, Dhanwapur, Basai, Kadipur and Hidayatpur was required for the public purpose namely for the development and utilization of land for residential and commercial area, Sectors-9, 9-A and 10, Gurugram. The petitioners' land measuring 2 Kanals is stated to be in Village Kadipur, as mentioned in para no.2 of the petition.

4. The averments in the writ petition are that the physical possession was also there with the landowners and compensation had not been paid. The impugned order dated 15.09.2017, thus, looks after the said aspect by noticing that the possession was handed over when the award was passed in 1991. We have been informed that RapatRojnamcha No.417 dated 18.03.1991 was entered for the said purpose. The compensation aspect had also been noticed that the same had not been taken by the landowners. The land acquired is required for two clinic sites, two nursing home sites and parking site and therefore, the essentiality of the land for planned development is there. The order records entry of RapatRojnamcha which has also been verified today. It is also pertinent to notice that there was a notice issued to father of the petitioner, Om Parkash, under Section 18 of the Haryana Urban Development Authority Act, 1977 dated 30.09.2005 (Annexure P-5) regarding the unauthorized encroachment of HUDA land in Village Kadipur. It is, in such circumstances, apparently since the land vested with the State of Haryana after

passing of the award and petitioners are in unauthorized occupation of the land.

5. The controversy now stands settled by the Constitution Bench of the Apex Court in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496** and only when the twin conditions are violated, the lapsing takes place. Once the possession has been taken by the necessary entry in the roznamchawhen the award was passed and compensation having been deposited but the landowners having not picked up the same, the requirement is fulfilled as laid down by the Apex Court. The representation itself is self-speaking in the sense that when it was filed in the year 2015, after 24 years of passing of the award, only on ground of lapsing under Section 24(2) when the new 2013 Act came into force. Therefore, the writ petition is liable to be dismissed on the ground of delay and laches also.

6. Resultantly, in view of the above discussion, the present writ petition stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK GUPTA)
JUDGE

24.10.2024
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No