

**CM-16634-CWP-2017 in/and
CWP-13425-2015 and other connected cases -1-
HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. **CM-16634-CWP-2017 in/and
CWP-13425-2015 (O&M)
Date of Decision: January 29, 2018**
- Vijay Pal and othersPetitioners
- Versus
State of Haryana and othersRespondents
2. **CWP-24870-2016**
- Ram Kumar and othersPetitioners
- Versus
State of Haryana and othersRespondents
3. **CWP-7855-2017**
- Raj Kumar and othersPetitioners
- Versus
State of Haryana and othersRespondents
4. **CWP-7980-2017**
- Mahender and othersPetitioners
- Versus
State of Haryana and othersRespondents
5. **CWP-8004-2017**
- Hazari and othersPetitioners
- Versus
State of Haryana and othersRespondents
6. **CWP-8544-2017**
- Jeet RamPetitioner
- Versus
State of Haryana and othersRespondents
7. **CWP-10779-2017**
- Braham Pal and othersPetitioners
- Versus
State of Haryana and othersRespondents

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8. **CWP-23810-2017** **-2-**

Jagdish Chand
.....Petitioner
Versus
State of Haryana and others
.....Respondents
And

9. **CWP-25108-2017**
Rattan Lal
.....Petitioner
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN

- | | | |
|-------|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| | | |

Present: Mr.Vikram Singh, Advocate
Mr.Sandeep Sharma, Advocate and
Mr.Sudhanshu Makkar, Advocate for the petitioners.

Mr.Ankur Mittal, Addl.AG, Haryana with
Mr.Shivendra Swaroop and Mr.Manoj Dhankhar, AAG,
Haryana.
.....

SURYA KANT, J.

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Application is allowed subject to all just exceptions. Annexure
P-16 is taken on record.

CWP-13425-2015

This order shall dispose of above captioned 9 writ petitions as
the petitioners in all the cases have sought common relief to declare the
acquisition of their respective land/property carried out vide Notifications

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dated 24.08.2000 and 22.08.2001 issued by State of Haryana under Sections 4 & 6 of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act') respectively followed by Award dated 21.07.2003 acquired for the public purpose of development of residential, commercial and institutional, Sector 57, Gurugram, to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act')

[2] Broadly, the admitted facts are that State of Haryana issued Notification dated 24.08.2000 under Section 4 of the 1894 Act proposing to acquire the land measuring 546.24 acres situated within the revenue estate of villages Wazirabad and Tigra Tehsil and District Gurugram. On consideration of objections filed by the owners/interested persons under Section 5-A of the 1894 Act, 40.59 acres land was exempted, hence Notification dated 22.08.2001 under Section 6 of the 1894 Act was issued for the land measuring 505.65 acres only. Subsequently, the Award was passed on 21.07.2003 in respect of land measuring 511.35 acres. It is also an admitted fact that after passing the Awards, the State Government further released 18.59 acres land from acquisition.

[3] The petitioners before us are amongst those whose land is part of 511.35 acres land which is still under acquisition.

[4] It would be useful at this stage to give brief description of the land/area of all the petitioners.

1.CWP No.13425 of 2015: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.1155(2-11-0),

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1202(0-12-0), 1203(1-16-0), total (4-19) situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notifications/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for Community Center, Shopping Center, Water Works sites and 18 mtr. wide road.

2.CWP No.24870 of 2016: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.1504(1B-14B-0B), 1515(0-7-0), total area 2-1-0 to the extent of $\frac{1}{4}$ share, situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notifications/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of

the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken.

3.CWP No.7855 of 2017: The claim of the petitioners in the instant writ petition pertains to Killa No.22//3/1(6-10) to the extent of ½ share, situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. The land of the petitioners comprising Killa No.22//3/1 min (1-10) was released. However, the petitioners maintain that for the remaining land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken.

However, according to the respondents, a part of the land is required for 2 No. plots of 10 Marla category, 4 No. plots of 6 Marla category, and 3 No. 10m wide road and Park site.

4.CWP No.7980 of 2017: The claim of the petitioners in the instant writ petition pertains to Killa No.7//16(8-0), 25(8-0), 8//21 min (5-15), 15//1/1(3-6), 16//5(8-0), 6min(1-5) total area 34K-6M, situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. The land of the petitioners comprising Killa No.8//21 min (0K-15M), 16//6 min (6-7), 15/1(1-17), 15/2(0-9) total area (9K-8M) was released. However, the petitioners maintain that for the remaining land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for 10 marla plots 3 no., 6 marla plots 12 nos, 18mtr wide road 2 no., 10 mtr road 1 no. and shopping center.

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5.CWP No.8004 of 2017: The claim of the petitioners in the instant writ petition pertains to Killa No.22//23/1, 23/2 (7-16), situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for 2 No. of G.H.Site and Community Centre.

6.CWP No.8544 of 2017: The claim of the petitioner in the instant writ petition pertains to Killa No.22//18 (5-0) to the extent of his share, situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. The petitioner maintains that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act

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came into force w.e.f. 01.01.2014. The petitioner also claims physical possession of the acquired land with him without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for community Centre and one No.18. wide road.

7.CWP No.10779 of 2017: The claim of the petitioners in the instant writ petition pertains to Killa No.16//4/2 min (4-12), 7 min (3-0), situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. Land of the petitioners comprising Killa No.16//3/1(1-3), 4/2 min(4-12), 7min(3-0) total area (8k-15m) was released. However, the petitioners maintain that for the remaining land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that

except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for Shopping Centre in Sector 57-I.

8.CWP No.23810 of 2017: The claim of the petitioner in the instant writ petition pertains to Killa No.21//6/1(2-0), 22//10(4-0) to the extent of ½ share, situated within the revenue estate of village Tigra, which was acquired vide the above mentioned Notifications/Award. Land of the petitioners comprising Killa No.21//6/2 (6-0), 22//10min (1-12) was released. However, the petitioners maintain that for the remaining land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of acquired land was ever taken. However, according to the respondents, a part of the land is required for 9 No. plots of 10 Marla category and 2 No.10 mtr wide road.

9.CWP No.25108 of 2017: The claim of the petitioners in the instant writ petition pertains to Khasra No.1495(0-18-0), 1496(1-8-0), 1500(1-19-0), total area (3-15-0) but area of acquired land measuring (2B-0B-0B) from the above said khasra nos., situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notifications/Award. Land of the petitioners comprising 1495 min, 1496 min, 1500 min (1-15-0) was released. However, the petitioners maintain that for the remaining land neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim physical possession of the acquired land with them without any intervention by a Court of law. Factum regarding non-payment/non-deposit of compensation is not in dispute. Similarly, there is no proof produced on record on behalf of the respondents to show that except the symbolic possession, physical possession of the acquired land was ever taken.

[5] This is also undeniable that similarly placed expropriated land owners/persons interested, approached this Court by way of CWP No.23319 of 2014 (Yashi Buildcon Pvt.Ltd. Vs The State of Haryana and others) and 20283 of 2016 (Anil and others vs State of Haryana and others) seeking a declaration that the impugned acquisition qua their land/properties is deemed to have lapsed under Section 24(2) of the 2013

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Act. This Court vide orders dated November 23, 2016 and December 14, 2016, allowed those writ petitions, as it was found that compensation amount was neither consented to be received by writ petitioners nor it was deposited with the Reference Court in accordance with law. However, having regard to the importance of the 'public purpose' of acquisition, it was directed that the writ petitioners will keep the land/property free from all types of incumbrances and will not change its nature for a period of one year so that the State could re-acquire the same in accordance with the 2013 Act if so required for the said purpose. Learned State counsel fairly concedes that no process to re-acquire the land in the cited cases has been started till date though the period of one year has already expired. According to him, instructions have been issued to the State counsel in New Delhi to file SLP but the same does not appear to have been filed so far. In the given circumstances, we can safely infer that orders passed by this Court in Yashi Buildcon Pvt.Ltd. and Anil and others (supra) have attained finality.

[6] Adverting to the facts of the case in hand, there is no gain saying that the petitioners never agreed to receive the compensation amount as was awarded by Land Acquisition Collector nor the compensation amount has been deposited with the Reference Court in accordance with Section 31 of the 1894 Act. Similarly, physical possession of the acquired parcels of land is with the petitioners as most of them have raised residential, commercial or some structures at the sites. In this view of the matter, there can be no escape but to hold that the petitioners have

established both the ingredients of Section 24(2) of the 2013 Act. The

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objections raised by the respondents in their written statement to oppose petitioners' claim have been elaborately dealt with by this Court in **Ghasitu Ram vs State of Haryana and others** 2017(3) RCR (Civil) 524 and **Satnam Singh and another vs State of Haryana and others** 2017(3) RCR (Civil) 579. It is not necessary to burden this order with the reasonings already assigned by this Court in the cited decisions.

[7] In the light of the above discussion, the writ petitions are allowed. The impugned acquisition qua the land or the properties of the petitioners is declared to have lapsed under Section 24(2) of the 2013 Act.

[8] Faced with this, learned State counsel refers to the development plan of Sector 57, Gurugram and urges that the *en bloc* release of petitioners' property/lands would hamper the regulated development of the sector as at some places, it will not be possible to construct the roads or to provide public amenities.

[9] Learned counsel for the petitioners fairly agree that to the extent a small part of their properties, or vacant land is required for the purpose of construction of roads or sewerage, they have no objection for utilisation of their land/property to that extent subject to the release of remaining land/property under Section 24(2) of the 2013 Act. Ordered accordingly. Similarly, it is clarified as an abundant precaution that in case any of the petitioners or their co-sharers have received compensation in respect of the land which is ordered to be released, such compensation will have to be refunded alongwith interest at the statutory rate within a period of three months.

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[10] However, on the analogy of the cited decisions, it is directed that the petitioners shall not change the nature of the land/properties and shall not create any third party rights in the released land for a period of one year so that if the subject property/land is required by the State for a public purpose, it may re-acquire the same in accordance with the 2013 Act. Even if the State Government decides not to acquire the petitioners' land, it is directed that the released land shall be used in conformity with the development plan of the area and the petitioners shall not be permitted to carry out any unauthorised/impermissible activity at the released property. Likewise, the petitioners shall be liable to pay the development charges in accordance with law.

**(SURYA KANT)
JUDGE**

January 29, 2018
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**(SHEKHER DHAWAN)
JUDGE**

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|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |