

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

CWP No. 26543 of 2014 (O&M)

Date of decision: 6.11.2017

Arvind Kharita

.. Petitioner

vs

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. Anurag Jain, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Ms. Monika Arora, Advocate for
Mr. Pritam Saini, Advocate, for HUDA.

Rajesh Bindal, J.

The petitioner has approached this Court claiming that acquisition of land in question has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, 'the 2013 Act'), as neither the possession of the acquired land has been taken nor the compensation thereof has been paid.

Learned counsel for the petitioner has submitted that notifications for acquisition of the said land under Section 4 and 6 of the Land Acquisition Act, 1894 (for brevity 'the 1894 Act'), were issued on 15.3.2004 and 14.3.2005, respectively. Award was announced by the Land Acquisition Collector on 8.11.2006. Neither the compensation for the

acquired land has been paid nor physical possession of the land has been taken. It has also been claimed that on the part of the acquired land, construction was already existing before publication of the notification under Section 4 of the 1894 Act and the petitioner is in possession ever since then. The petitioner had even filed objections under Section 5A of the 1894 Act. Without considering the same, the land was acquired. The amount of compensation not paid to the petitioner. They had not filed objections under Section 18 of the 1894 Act.

Learned counsel for the State fairly did not dispute the fact that the compensation for the land owned by the petitioner has not been collected by him and further there was construction existing on the part of the land prior to issuance of notification under Section 4 of the 1894 Act. The petitioner is still in possession thereof.

Heard learned counsel for the parties and perused the paper book.

Section 24(2) of the 2013 Act provides that acquisition of land would lapse in cases where award had been announced by the Collector five years prior to the enactment of the 2013 Act i. e. 1.1.2014, in case either the compensation for the acquired land has not been paid or the possession thereof had not been taken.

In the case in hand, it is the admitted position on record that the petitioner has not been paid the amount of compensation for the acquired land. In addition, admittedly even the construction was existing prior to the issuance of notification under Section 4 of the 1894 Act and the petitioner is still in possession of the constructed portion.

In view of the aforesaid discussion, in our view, the ingredients as laid down in Section 24(2) of the 2013 Act having been satisfied, acquisition of land owned by the petitioner has lapsed.

However, the State shall be at liberty to either initiate fresh proceedings for acquisition of land or negotiate with the landowners for purchasing/retaining the land in accordance with law, in case the land in question is required for completion of any project or otherwise. The petitioner shall maintain status quo regarding the land in question for a period of six months to enable the State to take decision.

The writ petition is disposed of accordingly.

(Rajesh Bindal)
Judge

6.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned?

Yes/No

Whether Reportable

Yes/No