

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

CWP No. 27010 of 2016 (O&M)

Date of decision : 4.12.2017

Om Parkash and others

.. Petitioners

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Navneet Singh, Advocate, for the petitioners.

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

Rajesh Bindal, J.

The petitioners have filed the present petition claiming that in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act'), the acquisition has lapsed, as possession of the acquired land has not been taken from them. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 22.6.2006 and 20.6.2007, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 28.11.2008.

Learned counsel for the petitioners submitted that though they have received compensation for the acquired land but possession thereof has not been taken from them. It was submitted that the petitioners are the

owners of the acquired land to the extent of 17 marlas and had constructed Atta Chakki and Oil Mill thereon prior to issuance of notification under Section 4 of the 1894 Act. After filing objections under Section 5-A of the 1894 Act, 10 marlas of land was released from acquisition initially. However, the petitioners are in physical possession of the entire land.

Learned counsel for the State did not dispute the fact that there was Oil Mill and Atta Chakki existing on the acquired land at the time of issuance of notification under Section 4 of the 1894 Act and thus the fact that the petitioners are still in physical possession of the acquired land is also not in dispute.

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 physical possession thereof has not been taken.

In the case in hand, it is the admitted position on record that the petitioners have received compensation for the acquired land. As regards possession of the land is concerned, it is not in dispute that the petitioners are in possession of the land ever since issuance of notification under Section 4 of the 1894 Act as construction had been raised thereon. Part of the land was even released from acquisition on that ground earlier.

For the reasons mentioned above, in our opinion, one of the conditions as contained in Section 24(2) of the 2013 Act having been

complied with, the acquisition of land in question has lapsed. However, as the petitioners have already received compensation for the acquired land, the same will be returned by the petitioners to the State within three months from the date of receipt of copy of this order along with interest at the rate it is payable under the 1894 Act.

The State shall also 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 petitioners 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 allowed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

4.12.2017
sharmila

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