

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17560 of 2016
Date of Decision: 01.12.2016

Ashok Gupta & Anr. ... Petitioners

VS.

State of Haryana & Ors. ... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA

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| <i>1. Whether speaking/reasoned?</i> | Yes |
| <i>2. Whether reportable?</i> | No |
| <i>3. Whether Reporters of local papers may be allowed to see the judgment?</i> | Yes / No |
| <i>4. To be referred to the Reporters or not?</i> | Yes / No |
| <i>5. Whether the judgment should be reported in the Digest?</i> | Yes / No |

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioners

Mr. RKS Brar, Addl. AG Haryana
Mr. Ravi Dutt Sharma, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioners have questioned the acquisition of their land measuring 13 marla comprising 83//17/1 situated in the revenue estate of village Patti Kaisth Seth, District Kaithal which was acquired vide award dated 22.02.1993. The grounds taken by the petitioners are that the physical possession of the site is still with them and compensation amount has neither been paid nor deposited in the Reference Court under Section 31(2) of the Land Acquisition Act, 1894. The acquisition is thus deemed to have lapsed in view Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(2) The Land Acquisition Collector, Urban Estate, Panchkula in his status report dated 10.11.2016 has admitted in para 6 that the compensation amount has not been received by the petitioners and the same is still lying deposited in the account of Land Acquisition Collector. In other words, it

has not been deposited in the Reference Court as per Section 31(2) of the 1894 Act.

(3) As regard to possession also, the plea taken by the petitioners appears to be correct that neither the land has been developed for the public purpose for which it was acquired nor its physical possession has been taken from them.

(4) There can thus be no escape but to hold that the ingredients of Section 24(2) of the 2013 Act are satisfied.

(5) For the detailed reasons assigned by this Court vide order dated 27.10.2016 rendered in CWP No.17464 of 2007 titled as Satnam Singh & Anr. vs. State of Haryana & Ors., the instant writ petition is allowed and the impugned acquisition is declared to have lapsed on both grounds as contained in Section 24(2) of 2013 Act.

(6) Having held so, we are further of the view that since Section 24(2) of 2013 Act itself in so many words contemplates the possibility of re-acquisition of the land/property in respect whereof the previous acquisition has lapsed, it is necessary to direct the petitioners to maintain *status quo* re: creation of third party rights; to keep the land/property free from all types of encumbrances and not to change the nature of land/property for a period of one year so that meanwhile the respondent-State may, if such property is needed for a “public purpose”, again acquire it. Such a direction is necessitated also for the reason that in numerous cases State or its agencies have taken possession in part and development works have been executed except over that land/property in litigation. Those development works ought to be completed in public interest and the only consequence of lapsing of previous acquisition, mostly due to fault of the

Government Officers/ Officials, would be that the owners of such land/property will be entitled to compensation and other benefits admissible under the 2013 Act.

(7) Ordered accordingly.

(Surya Kant)
Judge

01.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge