

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.26035 of 2016.

Date of Decision: January 18, 2018

M/s Uttam Fabricators

.....Petitioner

versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.Sandeep Sharma, Advocate, for the petitioner.
Mr.Ankur Mittal, Additional AG, Haryana and
Mr.Manoj Dhankhar, AAG, Haryana.

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Surya Kant, J. (Oral)

The petitioner is a proprietorship firm and is owner of land bearing khasra No.72/9/2 (3-7), 10 (8-0) to the extent of its share measuring 1533 square yards, situated within the revenue estate of village Unchagaon, Tehsil Ballabhgarh, District Faridabad.

[2] The broadly admitted facts are that the petitioner has set-up an industrial unit at the site besides other structures and godown for storing the fabricators and tiles. The photographs of existing structures as well as the bills of electricity charges being paid regularly have been placed on record.

[3] The petitioner's land was acquired by the State of Haryana alongwith a chunk of land vide Award No.4 dated 30.4.1998 for the purpose of its development and utilization as Transport, Communication Commercial, Residential and Institutional Sector-61, Faridabad.

[4] It is also an admitted fact that the petitioner neither consented to receive compensation for its acquired land nor it has been deposited with the Reference Court under Section 31 of the Land Acquisition Act, 1894. It is also not in dispute that physical possession of the land is still with the petitioner without any stay from a Court of law.

[5] In the light of the above mentioned admitted facts and since the Award was passed more than five years before the new Act, namely, the Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013 came into force w.e.f. 1.1.2014, there can be no escape but to hold that acquisition qua the petitioner's land has lapsed under Section 24 (2) of the 2013 Act.

[6] At this stage, learned State counsel refers to the lay-out plan of the acquired land. The site plan reveals that the land/factory premises of the petitioner is located on extreme right side towards southern corner and it does not affect the ongoing development of the Sector in any manner.

[7] Suffice to observe that if any part of the petitioner's land is required for the purpose of road, sewerage etc., the authorities can retain the same. Further, in case the petitioner's land is released, there is likelihood of wastage of adjoining acquired land which is such a small piece of land that it cannot be utilized for any public purpose. We thus grant liberty to the authorities to re-align the plot/property of the petitioner in such a manner that the adjoining acquired land does not go waste and petitioner's 1533 square yard land alongwith substantial part of existing structures also stand released. Let the needful be done within a period of three months from the date of receiving a certified copy of this order. For this purpose, the authorities may visit the area and carry out demarcation etc. on 05.02.2018 at 11.00 a.m.

[8] The writ petition stands disposed of accordingly.

(SURYA KANT)
JUDGE

January 18, 2018
mohinder

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No