

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

CWP No. 26769 of 2015 (O&M)

Date of decision : 4.12.2017

Shiv Enterprises

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Ajit Kumar, Advocate for
Mr. Ram Darshan Yadav, Advocate, for the petitioner.

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

Ms. Upasana Dhawan, Advocate, for respondents No.2 and 3.

Rajesh Bindal, J.

The petitioner has 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 the petitioner has neither received compensation for the acquired land nor possession thereof has been taken from it. Notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') were issued on 5.12.2005 and 13.3.2006, respectively. Awards were announced by the Land Acquisition Collector (for short, 'the Collector') from 17.5.2006 to 25.5.2006.

Learned counsel for the petitioner submitted that neither

compensation for the acquired land has been received by the petitioner nor possession thereof has been taken from him. It was submitted that the petitioner is the owner of land measuring 1 kanal 5 marla, on which the petitioner had set up an industry prior to issuance of notification under Section 4 of the 1894 Act. The petitioner is still in physical possession thereof.

Learned counsel for the State submitted that after announcement of award by the Collector, the State had deposited the amount of compensation with the Court. He admitted that the acquired land of the petitioner was being used as an industry at the time of issuance of notification under Section 4 of the 1894 Act and at present also the position is same. Otherwise the area has already been developed. If the land of the petitioner is released from acquisition, it will affect the planning of road, which was planned through the land of the petitioner and partly constructed.

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 has not been taken.

In the case in hand, it is admitted position on record that the petitioner is the owner to the extent of 1 kanal 5 marlas of land, on which industry was set up by the petitioner prior to issuance of notification under Section 4 of 1894 Act, which is still existing though compensation for the

acquired land was deposited by the State in Court.

For the reasons mentioned above, in our opinion, one of the condition as contained in Section 24(2) of the 2013 Act having been complied with, the acquisition of land in question has lapsed. However, the State shall be at liberty to withdraw the amount of compensation deposited with the Court in the case of present petitioner.

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. Or negotiate with the petitioner to take total or part of the land in question. 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 allowed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

4.12.2017
sharmila

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