



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

Date of Decision: 30.01.2018.

1. CWP-8147 of 2016

Tara Chand and othersPetitioners.

Versus

State of Haryana and others ...Respondents.

2. CWP-8173 of 2016

Dalmeet SainiPetitioner.

Versus

State of Haryana and others ...Respondents.

3. CWP-22302 of 2016

Suraj Bhan and othersPetitioners.

Versus

State of Haryana and others ...Respondents.

4. CWP-26582 of 2016

Chet Ram and othersPetitioners.

Versus

State of Haryana and others ...Respondents.

5. CWP-26246 of 2016

Ravinder Kumar ZutshiPetitioner.

Versus

State of Haryana and others ...Respondents.



6. CWP-17034 of 2016

Yadvender Yadav

....Petitioner.

Versus

State of Haryana and others

...Respondents.

7. CWP-19628 of 2016

Suraj Mal

....Petitioner.

Versus

State of Haryana and others

...Respondents.

8. CWP-25792 of 2016

Suraj Mal

....Petitioner.

Versus

State of Haryana and others

...Respondents.

9. CWP-13183 of 2017

Hari Singh and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present: Mr. A.K. Chopra, Sr. Advocate with
Ms. Rupa Pathania, Advocate
Mr. R.S.Rai, Senior Advocate with
Mr. Harsh Bungar, Advocate.
Mr. Vinod S. Bhardwaj, Advocate
Mr. Jasbir Singh Malik, Advocate



Mr. Jagbir Malik, Advocate
Mr. Neeraj Gupta, Advocate
Mr. Nitin Jain, Advocate
for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Manoj Dhankhar, Assistant Advocate General, Haryana.

SHEKHER DHAWAN, J.

This order shall dispose of above captioned 9 writ petitions as in all the petitions, the petitioners have sought common relief to declare the acquisition of their respective land/property carried out vide Notifications dated 20.06.2005 and 19.06.2006 issued by the State of Haryana under Sections 4 & 6 of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act') respectively followed by two separate Awards (bearing Nos. 45 and 46) dated 22.02.2007 acquired for the public purpose of development of residential, commercial, institutional and open space, Sector 52A, 53 & 54, Gurugram, to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, '**the 2013 Act**').

[2] Broadly admitted facts are that State of Haryana issued Notification dated 20.06.2005 under Section 4 of the 1894 Act proposing to acquire the land measuring 457.54 acres (295.14 +162.40) situated within the revenue estate of villages Wazirabad and Haiderpur Viran, Tehsil and District Gurugram. After considering the objections filed by aggrieved land



owners, vide notifications dated 19.06.2006, issued under Section 6 of the 1894 Act, land measuring 237.51 acres, situated in the revenue estate of village Wazirabad and land measuring 134.54 acres situated in the revenue estate of village Haiderpur Viran, was declared for acquisition. However, the State Government released 28.355 acres and 8.558 acres of land being licence area and ultimately, two separate awards were passed by the Land Acquisition Collector, bearing Award No.45 in respect of land situated in village Wazirabad and Award No.46 in respect of land situated in village Haiderpur Viran. These two awards are under challenge in these writ petitions, before this Court.

[3] It would be useful at this stage to give brief description of the land/area of all the petitioners.

1. CWP No.8147 of 2016: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.67(0-16-0) and 68(2-2-0), situated within the revenue estate of village Haiderpur Viran, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced



on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

2. CWP No.8173 of 2016: The claim of the petitioner in the instant writ petition pertains to Khasra Nos.67(0-16-0) and 68(2-2-0), situated within the revenue estate of village Haiderpur Viran, which was acquired vide the above mentioned Notification/Award. The petitioner maintains that neither he consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioner also claims that physical possession of the acquired land is also with him. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

3. CWP No.22302 of 2016: The claim of the petitioners in the instant writ petition pertains to Khasra No.600(5-1-0) situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the



Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

4. CWP No.26582 of 2016: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.611(13-2-0), No.599(0-13-0) and 627(0-8-0), situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.



5. CWP No.26246 of 2016: The claim of the petitioner in the instant writ petition pertains to Khasra No.19/1/3(1-0-0), situated within the revenue estate of village Haiderpur Viran, which was acquired vide the above mentioned Notification/Award. The petitioner maintains that neither he consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioner also claims that physical possession of the acquired land is also with him. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

6. CWP No.17034 of 2016: The claim of the petitioner in the instant writ petition pertains to Khasra No.481(2-17-0), situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioner maintains that neither he consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioner also claims that physical possession



of the acquired land is also with him. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

7. CWP No.19628 of 2016: The claim of the petitioner in the instant writ petition pertains to Khasra No.420(1-11-0), situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioner maintains that neither he consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioner also claims that physical possession of the acquired land is also with him. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

8. CWP No.25792 of 2016: The claim of the petitioner in the instant writ petition pertains to Khasra Nos.310/2(4-9) and 312/2(0-14), situated within the revenue estate of village



Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioner maintains that neither he consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioner also claims that physical possession of the acquired land is also with him. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

9. CWP No.13183 of 2017: The claim of the petitioners in the instant writ petition pertains to Khasra Nos.2078(0-16-0) and 2080/3(1-7-4), situated within the revenue estate of village Wazirabad, which was acquired vide the above mentioned Notification/Award. The petitioners maintain that neither they consented to receive the compensation amount nor it has been deposited with the Reference Court in accordance with law under Section 31 of the 1894 Act before the 2013 Act came into force w.e.f. 01.01.2014. The petitioners also claim that physical possession of the acquired land is also with them. Factum regarding non-payment/non deposit of compensation is not in dispute. Similarly there is no conclusive proof produced



on record on behalf of the respondents to show that except symbolic possession, physical possession of the acquired land was ever taken.

[4] Some similarly situated expropriated land owners/persons interested approached this Court by way of CWP No.23319 of 2014 (**Yashi Buildcon Pvt. Ltd. Vs. The State of Haryana and others**) and 20283 of 2016 (**Anil and others vs. State of Haryana and others**) seeking a declaration that the acquisition qua their land/properties is deemed to have lapsed under Section 24(2) of the 2013 Act. This Court vide orders dated November 23, 2016 and December 14, 2016 respectively allowed those writ petitions, as it was found that compensation amount was neither consented to be received by the petitioners nor it was deposited with the Reference Court in accordance with law. However having regard to the importance of the public purpose, this Court had directed that the writ petitioners will keep the land/property free from all types of incumbrances and not change the nature thereof for a period of one year so that if so required for the said purpose, the State could re-acquire the same in accordance with the 2013 Act. Learned State counsel fairly concedes that no process to re-acquire the land in those cases has been started till date, though the period of one year has already passed. Though according to him instructions have been issued to counsel at New Delhi to file SLP in this matter which also appears to have not been filed so far. In the given circumstances, we can safely inter that orders passed by this Court in **Yashi Buildcon Pvt. Ltd.** and **Anil and others** (supra) have attained finality. Further, CWP No. 62 of 2014 and



other connected similar writ petitions pertaining to the acquisition of land acquired for public purpose of development of residential, commercial and institutional, Sector 48, Gurugram, have been allowed by this Court vide judgment dated 29.01.2018.

[5] Adverting to the facts of the cases in hand, there is no gain saying that the petitioners never agreed to receive the compensation amount as was assessed vide Awards nor the compensation amount has been deposited with the Reference Court in accordance with Section 31 of the 1894 Act. Similarly, physical possession of the acquired parcels of land is with the petitioners as most of them have raised some residential, commercial or some structures at the sites. In this view of the matter, there can be no escape but to hold that the petitioners have established both the ingredients of Section 24(2) of the 2013 Act. Suffice to observe that even a *Gair Morushi* is also a person interested and has a *locus standi* to seek declaration of acquisition having lapsed under Section 24(2) of the 2013 Act. The objections raised by the respondents in their written statement to oppose petitioners' claim have been elaborately dealt with by this Court in **Ghasitu Ram vs. State of Haryana and others** 2017(3) RCR (Civil) 524 and **Satnam Singh and another vs State of Haryana and others** 2017(3) RCR (Civil) 579. It is not necessary to burden this order with the reasoning which has already been assigned by this Court in the cited decisions.

[6] In the light of the above discussion, the writ petitions are allowed. The impugned acquisition qua the land or the properties of the petitioners is declared to have lapsed under Section 24(2) of the 2013 Act.



However, on the analogy of the cited decisions, it is directed that the petitioners shall not change the nature of the land/properties and shall not create any third party rights with the released land for a period of one year so that if their subject property/land is required by the State for the notified public purpose, it may acquire the same in accordance with the 2013 Act within the said period. Even if the State Government decides not to acquire the petitioners' land, it is directed that the released land shall be used in conformity with the development plan of the area and the petitioners shall not be permitted to carry out any unauthorized/impermissible activity at the released property. Likewise, the petitioners shall be liable to pay the development charges in accordance with law.

(SURYA KANT)
JUDGE

(SHEKHER DHAWAN)
JUDGE

30.01.2018

jitender/som

- | | | |
|-------------------------------|---|-----|
| 1. Whether speaking/reasoned? | : | Yes |
| 2. Whether reportable? | : | Yes |