

(2014) 04 P&H CK 0173

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 7426 of 2014

Nathu Ram and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision: April 23, 2014

Acts Referred:

- Land Acquisition Act, 1894 - Section 4, 6
- Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - Section 24(2)

Hon'ble Judges: Surya Kant, J; Lisa Gill, J

Bench: Division Bench

Advocate: P.R. Yadav, Advocate for the Appellant; Tarannum Verma, Assistant A.G., Haryana, Advocate for the Respondent

Final Decision: Disposed Off

Judgement

Surya Kant, J.

Notice of motion to respondent Nos. 1 & 4 only at this stage.

2. On our asking, Ms. Tarannum Verma, learned Assistant Advocate General, Haryana, accepts notice on their behalf.

3. Let two copies of the writ petition be supplied to the learned State counsel during the course of the day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

4. In view of the nature of order which we propose to pass, there is no need to seek counter-reply from respondent Nos. 1 & 4 or to serve respondent Nos. 2 & 3 at this stage.

5. The petitioners impugn acquisition of their land carried out vide notifications dated 20.06.2005 (Annexure P-3) and 19.06.2006 (Annexure P-4) issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"),

respectively, followed by Award dated 22.02.2007 (Annexure P-5), on the premise that since possession of their acquired land has not been taken from them, the provisions contained in Section 24(2) of "the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as "2013 Act") shall apply and the old acquisition is deemed to have lapsed.

6. The question whether possession has been taken or not, is essentially a question of fact. In such like situation, this Court has viewed in CWP No. 6267 of 2014 (Gurjeet Singh and others versus State of Punjab and others) decided on 01.04.2014, viewed as follows:-

....The question whether physical possession of the entire land was taken by the authorities or the petitioners continue to retain the same without intervention by any Court, can also be effectively decided by the respondents on verification of the record. We thus, dispose of this writ petition without expressing any views on merits, with a direction to respondent Nos. 2 & 3 to treat this writ petition as representation-cum-claim petition on behalf of the petitioners and decide the same in accordance with law or in the light of the observations made herein-above, within a period of three months from the date of receiving a certified copy of this order....

7. The instant writ petition is also thus disposed of in the above-reproduced terms.

8. If there exists any construction at the site, its demolition shall remain stayed till the matter is decided by the authorities.

9. Ordered accordingly.

10. Dasti