

Before Surya Kant & Shekher Dhawan, JJ.

KUSUM AND ANOTHER—Petitioners

versus

STATE OF HARYANA AND OTHERS—Respondents

CWP No.15184 of 2004

January 24, 2018

Constitution of India, 1950—Art. 226—Land Acquisition Act, 1894, S.31—Right to Fair Compensation and Transparency in Local Acquisition, Rehabilitation and Resettlement Act, 2013—S.24—Petitioners challenged acquisition of their land—Found as a question of fact, that the land was utilized for a public purpose—Though majority of landowners received compensation, petitioners refused to accept compensation as assessed by Collector—Compensation not deposited with Reference Court in derogation of Section 31 of the Act accept compensation as assessed by Collector—Compensation not deposited with Reference Court in derogation of S.31 of the Act of 1894—High Court directed Land Acquisition Collector to re-determine the compensation amount in accordance with S.24(1) of the Act of 2013—Writ petition partly allowed.

Held that though most of the land owners have received compensation but so far as the petitioners are concerned, they never consented to receive the compensation as assessed by the Land Acquisition Collector. The said compensation was not deposited with the Reference Court also in accordance with Section 31 of the 1894 Act. In this view of the matter and as explained by this Court following catena of Supreme Court decisions in Ghasitu Ram v. State of Haryana and others 2017(3) RCR (Civil) 524, one of the conditions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 stands satisfied and as a result thereto, it can be safely inferred that the impugned acquisition has lapsed qua the petitioners' land. We are, however, of the view that even in a case where the acquisition carried out under the 1894 Act is declared to have lapsed under Section 24(2) of the 2013 Act, the legislative object of 2013 Act is to compensate the expropriate owners with revised and enhanced amount of compensation as may be assessed under the 2013 Act. Such legislative object can be effectively achieved by directing the respondents to assess the compensation under Section 24(1) of the 2013 Act, so that public purpose for which the

acquired land has been utilised, remains unaffected and at the same time the petitioners are benefitted with the provisions of the 2013 Act. Ordered accordingly.

(Para 7)

Further held that the Land Acquisition Collector is, thus, directed to re-determine the compensation amount of the acquired land of the petitioners in accordance with Section 24(1) of the 2013 Act within a period of four months from the date of receipt of a certified copy of this order and the same be disbursed to them immediately.

(Para 8)

Meenakshi Sharma, Advocate for
M.L.Sharma, Advocate
for the petitioners.

Ankur Mittal, Addl.AG, Haryana with
Manoj Dhankhar, AAG, Haryana.

SURYA KANT, J.

(1) This order shall dispose of the above captioned writ petitions as the point in issue involved in both the cases is common in nature. For the sake of convenience, the facts are being extracted from CWP No.15184- 2004.

(2) The petitioners have laid challenge to the acquisition of their land measuring 16 kanals 4 marlas situated within the revenue estate of village Khalilpuri, Tehsil & District Rewari, fully described in head-note of the petition which was acquired by State of Haryana vide Notifications dated 17.04.2002 and 27.09.2002 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for brevity, 'the 1894 Act') respectively.

(3) The broadly admitted facts are that State of Haryana decided to acquire land measuring 508 kanals 06 marlas situated within the revenue estates of various villages for the public purpose of 'Police Lines and its Staff quarters' at Rewari. The land of the petitioners was also included in the proposed acquisition. They filed objections under Section 5A of the 1894 Act which were duly considered. Opportunity of hearing was also granted and their land was eventually notified under Section 6 of the 1894 Act. Thereafter, Notice under Section 9 of the 1894 Act was issued and Award was passed.

(4) The foremost contention raised on behalf of the petitioners to challenge the acquisition is that they have constructed a marriage

palace at the site which deserves to be released from acquisition as per the Government Policy.

(5) The respondents in their written statement have denied existence of any construction at the site and a categorical stand has been taken that the land was lying vacant at the time when survey was conducted before issuance of Notification under Section 4 of the 1894 Act. They have maintained that the land has been acquired for a *bona fide* public purpose and the procedure, as contemplated under the 1894 Act, has been minutely followed.

(6) The instant writ petition was filed in the year 2004. Learned State counsel has filed a fresh written statement through Special Secretary to Government, Haryana, Home Department, which is taken on record. As per the averments reiterated therein, the Notifications under Sections 4&6 were duly published in the daily newspapers circulated in the locality and, thus, wide publicity as per the statutory mandate was given. It is further explained that the objections of the petitioners were duly considered and they were provided opportunity of hearing on 21.06.2002 through letter dated 14.06.2002, though the petitioners did not cooperate and did not come forward to record their statements. It is further mentioned that the acquired land has already been utilised for the notified public purpose, namely, the Police Lines and Staff Quarters have been constructed. In addition, Administrative block, Police Public School and barrack for police officials have also been constructed at the site.

(7) Regardless thereto, it is also admitted that though most of the land owners have received compensation but so far as the petitioners are concerned, they never consented to receive the compensation as assessed by the Land Acquisition Collector. The said compensation was not deposited with the Reference Court also in accordance with Section 31 of the 1894 Act. In this view of the matter and as explained by this Court following catena of Supreme Court decisions in *Ghasitu Ram* versus *State of Haryana and others*¹, one of the conditions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 stands satisfied and as a result thereto, it can be safely inferred that the impugned acquisition has lapsed qua the petitioners' land. We are, however, of the view that even in a case where the acquisition carried out under the 1894 Act is declared to have

¹ 2017(3) RCR (Civil) 524

lapsed under Section 24(2) of the 2013 Act, the legislative object of 2013 Act is to compensate the expropriate owners with revised and enhanced amount of compensation as may be assessed under the 2013 Act. Such legislative object can be effectively achieved by directing the respondents to assess the compensation under Section 24(1) of the 2013 Act, so that public purpose for which the acquired land has been utilised, remains unaffected and at the same time the petitioners are benefitted with the provisions of the 2013 Act. Ordered accordingly.

(8) The Land Acquisition Collector is, thus, directed to re-determine the compensation amount of the acquired land of the petitioners in accordance with Section 24(1) of the 2013 Act within a period of four months from the date of receipt of a certified copy of this order and the same be disbursed to them immediately.

P.S. Bajwa