

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 12427 of 1996

Reserved on : 11.3.2024

Date of Decision: 08.4.2024

Balaji Motors and others

.....Petitioners

Versus

Government of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Argued by: Mr. Kunal Dawar, Advocate and
Mr. Rohit Rana, Advocate
for the applicant-petitioner No. 12.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate
Mr. Shivam Garg, Advocate
for the respondent-HSVP.

SURESHWAR THAKUR, J.

1. Through the instant petition, a challenge is made to the issuance of notifications respectively under Section 4, and, under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). Resultantly, a prayer is made for the quashing of the said notifications, besides a prayer is also made for the quashing of the award, if any, which became passed in pursuance thereof.

2. The grounds, as raised in the instant writ petition for seeking the quashing of the said notifications, are *inter alia* founded, upon (a) that the objections raised under Section 5-A of the Act of 1894 becoming summarily decided, (b) that despite the acquiring authority concerned, releasing the lands of similarly situated land losers, namely Mahipal Singh, Devinder

Kumar, Avtar Singh and Nagpal Singh, yet the acquiring authority

concerned, not treating the present petitioners at par with the above land losers concerned. Resultantly thereby the acquiring authority concerned, is alleged to practice invidious discrimination against the present petitioners.

3. However, for the reasons to be assigned hereinafter, the above claimed reliefs are liable to be declined.

4. Insofar as the claims raised by the present petitioners, that they were either respectively barred from raising objections under Section 5-A of the Act of 1894, before the Collector concerned, and/or their objections were summarily rejected, rather on the premise that the said claims are misfounded, thus are rejected. The reason for making the above conclusion stems from the factum, that it is but evident on a reading of reply on affidavit, furnished to the instant writ petition, on behalf of the respondents concerned, that despite an opportunity being granted to the land losers concerned, yet co-petitioners No. 4, 11, 12, 18, 21, 34, 35 and 38, rather not availing the said opportunity nor theirs preferring objections in terms of Section 5-A of the Act of 1894, before the Collector concerned. In the face of abandonment of the said opportunity by the co-petitioners (*supra*), to thus prefer objections under Section 5-A of the Act of 1894, before the Collector concerned, thereby theirs' said abandonment, thus tantamounts to waiver of the said granted opportunity, besides fosters a further conclusion, that the petitioners (*supra*) become estopped to claim before this Court, that either they became forestalled to raise objections or the said objections were summarily dismissed.

5. Insofar as the claim raised by co-petitioners No. 1 to 3, 5 to 10, 13 to 17, 19, 20, 22 to 33, 36, 37, 39 and 40, that their objections were summarily dismissed, this Court has discovered from a reading of the reply

concerned, that despite notice for hearing of the objections reared by the above petitioners, thus becoming granted to them, yet petitioners No. 3, 13, 16, 28, 29 and 36 not appearing on the date assigned for the hearing of the objections. Resultantly, the order rejecting the said objections cannot be contended to be violative of the principles of natural justice, as despite an opportunity becoming granted to the petitioners (supra), yet they omitted to cause their respective appearances before the Collector concerned. Moreover, when the petitioners concerned, saving co-petitioners No. 3, 13, 16, 28, 29 and 36, though caused their appearances on the relevant dates, thus before the Collector concerned, thus when therebys the said petitioners were fully heard on the relevant objections, resulting in the rejection of the said objections. Consequently, the order rejecting the objections, as became reared by the abovesaid petitioners, thus cannot be said to be made without adherence to the principles of natural justice. It appears, that the dismissal of the objections of the co-petitioners (supra) became rested on the ground, that they raised construction in violation of the provisions of the Punjab Scheduled Roads Act, 1963, therebys the said constructions if were subjected to acquisition, thereupon, the makings of acquisition of the said constructions, rather is neither colorable, nor is arbitrary. Contrarily, the said constructions, as made in violation of the statute (supra), thus were not amenable for being released from acquisition. If so, if the apposite objections raised by the land losers concerned, for releasing the said constructions from acquisitions hence became dismissed, thus on the above ground, thereupon the dismissal of the objections on the above premise is construable to be made on a keen application of mind, besides on sound application of the statute (supra) to the prohibited constructions concerned.

furnished to the instant petition, that the lands covered within the prohibited constructions (supra) are an integral component of the layout plans. Resultantly, when therebys the lands whereons such illegal constructions exist do further the requisite public purpose. Resultantly for ensuring the furtherance of public purpose which would but be achieved on acquisition of lands whereons the said illegal constructions exist, as such, the claim for release of the said lands from acquisitions but cannot be said to be a well laid claim by the land losers concerned.

7. Though, the petitioners claim, that the acquiring authority concerned, released the lands of land losers, namely Mahipal Singh, Devinder Kumar, Avtar Singh and Nagpal Singh, despite the said land losers being similarly situated to the present petitioners, besides though thereby they contend, that the present petitioners have been invidiously discriminated. However, the said submission falters in the wake of a detailed reply on affidavit, furnished by the respondents concerned, wherein it is explicitly stated, that the estate of the above land losers, were not an integral component of the layout plans, and, as such it was deemed appropriate to release the lands of the above persons from acquisition. Since the Engineering Cell of the acquiring authority concerned, alone is the repository of making profound contemplations with respect to the necessity of acquisition of the estate of one or the other land losers concerned. Resultantly, when the Engineering Cell of the acquiring authority concerned, deemed not to acquire the lands of the persons (supra), and, rather deemed it necessary to acquire the lands of the present petitioners. In sequel, this Court does not deem it fit, and, appropriate to interfere with the expertise employed by the Engineering Cell of the acquiring authority concerned. The

bedrock (supra), thus completely falters, and, as such is liable to be rejected.

Final Order of this Court.

8. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notification(s) are maintained and affirmed.

9. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

April 08, 2024
Gurpreet

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