

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 4791 of 2014 (O&M)

Reserved on : 16.4.2024

Date of Decision: 29.4.2024

Balwan Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Argued by: Mr. B.S.Rathee, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner seeks the quashing of notification dated 20.10.2001 (Annexure P-2), and, also seeks the quashing of notification dated 18.10.2002 (Annexure P-3). The said notifications were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award dated 14.10.2004 has also been asked to be quashed, and, set aside.

2. The above espoused writ claims become founded upon 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 Act of 2013'), whereunders the petitioner becomes empowered to claim the making of a lapsing declaration.

3. Earlier the instant petition along with CWP-11445-2008 and other connected CWPs were disposed of by this Court on 27.10.2016. The

said decision became challenged before the Hon'ble Apex Court by filings

SLPs. The Hon'ble Apex Court through a decision made on 13.11.2021, on the said SLPs, set aside the impugned order, and, remitted the instant writ petition to this Court for deciding it afresh. Thereafter, when the instant petition came up for hearing on 27.9.2022, it was adjourned sine die to await the decision of SLP (C) No. 003881-2020. The operative part of the decision on the said SLP is extracted hereinafter.

“In such view of the matter, the appeal is allowed.

Accordingly, the impugned order stands set aside and the matter is remitted to the High Court to be decided on the issues other than the one covering the field in Indore Development Authority (supra)”

4. A reading of the above extracted operative part of the decision, made by the Apex Court reveals, that Hon'ble Apex Court had remanded the *lis* to this Court with a direction to decide the same on all the issues excepting the issue relating to the making of a lapsing declaration in terms of Section 24(2) of the Act of 2013.

Grounds raised in the instant petition

5. The grounds, as raised in the instant petition by the petitioner that he is the owner in possession of his share of agriculture land measuring 41 kanals 16 marlas, comprised in khewat No. 214/215, khatauni No. 245, situated in the revenue estate of village Raipur, Tehsil and District Sonapat. It is further averred in the instant petition, that the notification issued under Section 4 of the Act was not issued in accordance with the mandatory provisions of the Act of 1894. It is further averred, that the since the Government of Haryana had framed a policy to allow the private builders to develop the residential colonies in different cities, therefore, some of the land owners had entered into a Memorandum of Understanding with M/s

Parsvnath Developer Ltd. for setting up a residential colony, and, the said company moved an application in Form LC-1 to the competent authority on 24.8.2004. It is further averred in the instant petition, that against the impugned notifications, and, award, some of the land owners approached this Court by filing CWP No. 10845 of 2004, which became disposed of through an order made thereons on 16.7.2005 by this Court, thus on the suggestion of the learned State counsel that a High Powered Committee shall be constituted to examine the grievance of the land owners. It is also averred in the instant petition, that the High Powered Committee, through an order dated 1.6.2010 had declined the claim of the petitioners. The said order was challenged before this Court by filing of bunch of writ petitions, whereby this Court through an order made on the said bunch of writ petitions on 7.7.2011, recalled the order dated 1.6.2010, and, directed the petitioners to appear before the High Powered Committee on 25.7.2011, and, the High Powered Committee was directed to pass a speaking order after hearing the grievance of the petitioners. However, till date no such order has been passed by the High Powered Committee. It is further averred in the petition, that the petitioner is in physical possession of the disputed land of his share, and, that neither the physical possession of the petition land has been taken by the acquiring authority concerned, nor the compensation amount has been paid to the petitioner.

Submissions of the learned counsel for the respondents

6. The learned counsel for the respondents submits, that he petitioner has entered into a collaboration agreement with M/s Parsvnath Developer Ltd. The entity (supra), had moved an application to the Department of Town and Country Planning, Haryana, Chandigarh, on

24.8.2004 for grant of licence for developing the subject lands into a residential plotted colony. However, the said application being incomplete was returned, on 22.9.2004, by the department concerned, under Rule 7 of the Haryana Development and Regulation of Urban Areas Act, 1975. He further submits, that thereafter the petitioner neither re-submitted the application for grant of licence after completing the same in accordance with the provisions of Rule 3 of the Haryana Development and Regulation of Urban Areas Rules, 1976, nor he challenged the order (supra) by filing an appeal before the competent Court of Law. Therefore, it is contended, that the present petitioner has no right to claim release of the subject lands.

**Analysis of the submissions made by the learned counsel for the petitioner
and the learned counsel for the respondents**

7. The notification issued under Section 4 of the Act of 1894, for therebys bringing the subject lands to acquisition, was issued in the year 2001. The said notification was succeeded by a declaration made under Section 6 of the Act of 1894. In pursuance thereof, an award dated 14.10.2004 was passed.

8. There is no wrangle amongst the contesting litigants that the compensation amount, as became assessed in the award (supra) has been tendered for being disbursed to the land losers concerned.

9. The dispute which has arisen amongst the contesting litigants appertains to the validity of the claim raised by the land losers wherebys they seek relief qua the subject lands becoming released from acquisition. The said relief is premised on the ground, that the petitioner has entered into a collaboration agreement with M/s Parsvnath Developer Ltd. The entity (supra), which is a Land Developer and Builder, had moved an application

to the Department of Town and Country Planning, Haryana, Chandigarh, on 24.8.2004 for grant of licence for developing the subject lands into a residential plotted colony. However, the said application being incomplete was returned, on 22.9.2004, by the department concerned, under Rule 7 of the Haryana Development and Regulation of Urban Areas Act, 1975. Thereafter, in pursuance of the order passed by this Court on 16.7.2005, upon CWP-10845-2004, a High Powered Committee was constituted. Subsequently, the claim of the petitioner was rejected by the High Powered Committee through an order dated 1.6.2010. However, though the said order became recalled through an order made by this Court on 7.7.2011, whereby the petitioner was again directed to appear before the High Powered Committee on 25.7.2011, but since no order in pursuance thereof has been passed by the High Powered Committee. Therefore, the learned counsel for the petitioner orally argues, that irrespective of non-rendition of an order by the High Powered Committee in pursuance to the directions passed by this Court on 7.7.2011, yet the writ relief (supra) becoming accorded to him.

Reasons for dismissing the instant petition

10. For the reasons to be assigned hereinafter, the writ relief is not amenable to become accorded to the present petitioner.

11. Initially for the reason, that the present petitioner is fighting a proxy battle on behalf of a builder/estate developer, namely, M/s Parsvnath Developer Limited, and, with whom the present petitioner entered into a collaboration agreement. The makings of an agreement by the present petitioner, with the said estate developer/builder, thus post the issuance of notifications (supra), does not in the least effect, the vestment of right, title

and interest vis-a-vis the subject lands in the acquiring authority concerned. The reason for making the said inference ensues from the factum, that on issuance of notification under Section 4 of the Act of 1894, thus complete right, title and interest over the subject lands becomes invested in the acquiring authority concerned, whereby the land losers concerned were estopped to enter into any collaboration agreement with the real estate developer/builder concerned, nor thereby any claim reared by the said builder before the Town and Country Planning Department concerned, for issuance of a licence to develop the subject lands, thus was amenable to become accepted.

12. Secondarily, for the reason, that since the subject lands do further the requisite public purpose, and, with the award in respect of the subject lands becoming pronounced in the 2004, but yet on account of orders becoming passed by this Court, whereby there is a stay against the dispossession of the petitioner from the subject land, rather the petitioner is retaining possession over the subject lands. However, hereafter the retention of possession, if any, over the subject lands, by the petitioner or by the proxy namely, M/s Parsvnath Developer Ltd., rather would be as trespasser over the subject lands. The petitioner or his proxy is thus required to become lawfully evicted from the subject lands. In sequel, also the forestalling of the public purpose by the present petitioner in collusion with the real estate developer/builder (*supra*), thus is to be flayed, as, thereby the relevant public purpose has been put to a pause, thereby causing prejudice to the public project.

Final Order of this Court.

13. In aftermath, this Court finds no merit in the instant petition,

and, with the above observations, the same is dismissed with costs of Rs. 25,000/- upon, the petitioner to be forthwith deposited by him with the ‘Punjab and Haryana High Court Employees Association’. The impugned notifications, and, award are maintained and affirmed.

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

(SURESHWAR THAKUR)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 29, 2024
Gurpreet

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