

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 9399 of 2014 (O&M)

Reserved on : 16.4.2024

Date of Decision: 29.4.2024

Parjapat Education Society and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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

Argued by: Mr. R.Kartikeya, Advocate
for the petitioners.

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

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of the impugned order (Annexure P-13), whereby in terms of the directions passed by this Court on 11.7.2013 (Annexure P-12), rather the petitioners' claim for release from acquisition of land measuring 7 kanals 1 marla falling in road widening, and, green belt rather became rejected.

2. The said rejection was made on the ground, that the above said land is required for road widening, and, green belt, besides it also became stated therein, that the acquiring authority concerned, will take further action for realigning 12 meter wide service road, thus existing in front of the school, and, would also take further action to allot equivalent of the acquired land adjoining to the school building at the nodal rates fixed for the school sites. The relevant paragraph, as relates to the petitioner, is carried in paragraph 7 of Annexure P-13, and, is reproduced hereinafter.

16413 of 2012 titled as Prajapat Education Society, out of the total land measuring 14K-16M falling in khasra Non. 111//18/2, 22, 23, 7K-15M is released from acquisition and the balance land measuring 7K-1M falling in road widening and green belt is acquired as per the recommendations approved by the Government. HUDA will take further action realign 12 meters wide service road in front of the school and will also take further action to allot equivalent of the acquired area adjoin to the school building at the nodal rates fixed for school sites.”

3. The learned counsel for the petitioners submits, that the said order Annexure P-13 is infirmly recorded. In making the above submission, the learned counsel for the petitioners has very forcefully argued before this Court, that the impugned order is ridden with the vices of discrimination, inasmuch as, the other land losers, who were similarly situated to the instant petitioners, though became benefitted through release orders being passed, yet in respect of the subject land, no release order becoming passed. Consequently, the learned counsel for the petitioners argues, that the impugned order does thereby suffer from the vice of arbitrariness, and, is required to be quashed, and, set aside.

4. However, for the reasons to be assigned hereinafter, this Court does not agree with the arguments addressed before this Court by the learned counsel for the petitioners, and, thereby is led to dismiss the instant writ petition.

5. Primarily for the reasons, that the subject lands are declared in reply on affidavit, furnished to the instant writ petition, by the respondents concerned, to become notified as controlled area vide notification bearing No. 207-10DP-82-4784 dated 26.3.1982. The said notification is contended to be made under Section 4(1)(2) of the Punjab Scheduled Roads and

Controlled Areas Restriction of Unregulated Development Act, 1963 (for short 'the Act of 1963'). Therefore, when the subject lands are a part of the controlled area, besides when they are stated in the reply on affidavit to be a part of the green belt. Furthermore, though the petitioners applied for Change of Land User permission, and, also asked for assessments of compensation qua unauthorized constructions, as became raised over the said land, but it has been also detailed in the reply on affidavit, that though the said asked for relief became examined, but since the said constructions were non-compoundable, as they fell within the 30 meter of the restricted belt along with Jhajjar Sampla scheduled road, resultantly thereby the petitioners were directed to demolish the same. It is further stated in the reply, that the said directions remained uncomplied with by the petitioners, as such, no decision on the application moved by the petitioners for Change of Land Use rather was taken.

6. Be that as it may, it is further averred in the reply on affidavit, that Sections 3 and 6 of the Act of 1963 became amended, through promulgation of an ordinance published in the Government Gazette dated 3.1.2009, besides the said promulgated ordinance also resulted in an amendment being made in the Act of 1963 vide notification dated 24.3.2009. Resultantly for expediting the process of regularization of the petitioners' building, as became raised prior to the promulgation of the ordinance, but subject to the said raised building being within 30 meters/100meters wide restricted belt along with the relevant roads, thus a committee was constituted vide notification dated 24.3.2009. The said committee comprised of the District Town Planner concerned, the representative of the Deputy Commissioner, and, the Executive Officer of the Municipality

construction made over the subject land but within 30 meters of the scheduled road, thus became regularized by the Regularization Committee concerned. However, it has also been stated in the reply on affidavit, that the petitioners had furnished an affidavit in the office of the District Town Planner, Jhajjar, that yet they would not raise any objection to the acquisition of any portion of the subject land, especially for the purpose of road widening and laying of essential infrastructure as and when required. The recitals (supra), as carried in Annexure-B are *ad verbatim* extracted hereinafter.

“x x x x

(i) *That case of regularization of building located in khasra No. 8280 of village Jhajjar, District Jhajjar is under consideration as per provision of Section 3 & 6 of Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963.*

(ii) *That I undertake not to object to the acquisition of any portion of the site/building for the purposes of road widening and laying of essential infrastructure as and when required.*

x x x x”

7. The echoings, as existing in Annexure-B, annexure whereof is an affidavit of one Rattan Lal, but are suggestive, that despite the makings of regularization of the relevant constructions, thus by the committee (supra), yet when an echoing is made therein, that the deponent concerned, also undertook in Annexure-B rather to not raise any objection to the acquisition of the subject land. Resultantly, the said made echoings do estop the petitioners from claiming that the subject land be released from acquisition. Predominantly also the said release cannot be made by this Court, as therebys there would be an impermissible tinkering with the layout plans, besides would result in this Court forestalling the relevant public purpose.

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 order is maintained and affirmed.
9. 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