IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5340 of 2014

Date of decision:23.9.2015

Neeraj Kumar ….Petitioner

VERSUS

State of Haryana and others .....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Gaurav Singla, Advocate for
Mr. Sanjiv Gupta, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana
for respondents No.1 and 5.

Mr. Abhishek Sharma, Advocate and
Mr. Munish Kumar Garg, Advocate
for respondent No.6.

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HEMANT GUPTA, J.

The challenge in the present writ petition is to the notifications dated 17.04.1989 and 16.04.1990 published under Section 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') as well as Award dated 12.06.1990 along with all consequential proceedings for the reason that purpose of acquisition has not been achieved and for directing the respondents to revert the land to the land-owners after getting the compensation deposited.

The land of the petitioner was subject matter of notifications published under Section 4 and 6 of the Act and the award stands

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announced. The petitioner has raised a reference for claiming enhanced compensation as well. The petitioner and his brothers filed a writ petition bearing CWP No.5751 of 2012 titled Neeraj Kumar and others v. State of Haryana and others, for claiming of allotment of plots under the oustees quota. The said writ petition was decided on 26.04.2012.

The grievance of the petitioner is that the land acquired has not been utilized for residential/commercial area of Sector 29, Gurgaon but the Haryana Urban Development Authority (for short 'HUDA') entered into a lease agreement for setting up a recreation and amusement park. Such lease agreement has been appended with the writ petition as Annexure P-5. The petitioner has sought quashing of the acquisition proceedings for the reason that the land has not been utilized for stated public purpose but for setting up of an entertainment and amusement park by the name of *Appu Ghar*.

In the written statement filed, the respondent No.6 has raised a plea that the writ petition suffers from delay and laches of almost 24 years. The process of award of lease was carried out as far as back in the year 2009 and lease agreement executed in the year 2011 pursuant to the tender process. It is also pointed out that the acquired land vests with the Government free from all encumbrances and even if the land is not used for the purpose for which it was acquired, the land-owner does not have any right of possession. Reference was made to judgments of Hon'ble Supreme Court reported as Northern Indian Glass Industries v. Jaswant Singh and others, (2003) 1 SCC 335; Chandragauda Ramgonda Patil and another v. State of Maharashtra and others, (1196) 1 SCC 800; C. Padma and others v. Deputy Secretary to Government of Tamil Nadu and others,

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(1997) 2 SCC 627 and Government of Andhra Pradesh and another v. Syed Akbar, (2005) 1 SCC 558.

On merits, it is stated that HUDA issued an advertisement for setting up of Theme Park (Amusement Park) at Gurgaon on 11.08.2009. It was in pursuance of such advertisement, respondent No.6 emerged as a successful bidder and the Letter of Intent was issued. Subsequently, a lease agreement dated 14.06.2011 was executed.

In the written statement filed on behalf of respondent No.5, it is pointed out that the possession was handed over to the representative of HUDA on 12.06.1990 and compensation of Rs.6,86,838/- was paid to the father of the petitioner vide cheque dated 12.06.1990.

We have heard learned counsel for the parties and find no merit in the present writ petition. The land was acquired for the purpose of Development and Utilization of Land for Residential and Commercial Area. The setting up of amusement park is part of the purpose for which the land was acquired. The amusement park is for the benefit of residents of the city and is not a private activity. Therefore, when the lease agreement is executed by HUDA with respondent No.6, it cannot be said that the activity undertaken is not a public purpose.

A Division Bench of this Court in CWP No. 17979 of 2011 titled Jagtar Singh and others vs.State of Punjab and others**,** decided on 09.02.2012, has considered the similar issue as is raised by the respondents and held that even if the stated public purpose is not carried out, the State Government is competent to utilize the land for any other public purpose. The land vests with the State Government free from all encumbrances after

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the award announced and possession taken. The relevant extract from the judgment is as under:

> "On the basis of such judgment (*M/s Royal Orchid Hotels Limited and another* Vs. *G.Jayarama Reddy and others* (2011)10 SCC 608), it cannot be said that the State Government having acquired land for one public purpose, is estopped to convert the use of the said land for any other public purpose. There is no finding that the land acquired for one public purpose cannot be used for another public purpose. The entire case was based upon transfer of land to a private builder. In the two judgments referred to by Mr. Anupam Gupta, it has been held that after announcing of the award and taking possession under Section 16 of the Act, the acquired land vests with the Government free from all encumbrances. The landowners do not get any right to ask for revesting the land in them and to ask for restitution of the possession even if the land is not used for the purpose for which it was acquired……
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> In view of the aforesaid judgments, though the land was not acquired under the provisions of the Act, but still applying the principles of acquisition under the Act, the public purpose for which the land is acquired can always be changed to another public purpose by the State Government for optimum utilization of the land. The requirements of the community keep on varying. The schemes can be varied to meet the changing needs of the public."

We find that the public purpose as notified has not been changed. Even if the purpose has undergone change, still the purpose of lease for setting up of an amusement part for the benefit of general public cannot be said to be not a public purpose. Since, the compensation amount stands paid and the possession is admittedly with the respondents in view of the lease agreement executed, we find that the petitioner is neither entitled to the benefit of provisions of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

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Resettlement Act, 2013 nor can impugn the acquisition proceedings at this stage.

In view thereof, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 23, 2015 **(RAJ RAHUL GARG)**
'D. Gulati' **JUDGE**

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