

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.19901 of 2012 (O&M)

Date of Decision:- 17.08.2017

Prem Kumar and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present:- Mr. Harkesh Manuja, Advocate for the petitioners.

Mr. Ankur Mittal, Addl.A.G. Haryana.

Mr. Rahul Garg, Advocate for respondents No.4 and 5.

Rajesh Bindal, J.

The petitioners, whose land was sought to be acquired for the purpose of development as residential, commercial, transport and communication areas for Sectors 9 and 14, Kurukshetra, have filed the present petition challenging the agreement to sell dated 9.9.2005 entered into between the petitioners and respondent No.4, a builder. Challenge has also been made to various sale-deeds executed by the petitioners in favour of the vendee. Notification under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") was issued on 24.7.2003, which was followed by notification under Section 6 of the Act on 22.7.2004. Though the land of the petitioners was notified in both the notifications, however, finally no award was passed pertaining to the land owned by the petitioners as he sold the land to the builder.

Challenge in the present writ petition, which has been filed in

the year 2012, is to the agreement to sell and the sale-deeds executed in the years 2005 to 2007. The acquisition was not complete, hence there is serious doubt about the maintainability of the writ petition as the acquisition itself is not there. For challenging agreement to sell and the sale-deeds being *inter se* between two private parties, the remedies may be elsewhere especially when the plea of fraud is sought to be alleged.

Learned counsel for the State has referred to judgment of this Court in 2015(3) R.C.R. (Civil) 372 titled as Chet Ram and another Versus State of Haryana and others wherein under similar circumstances a bunch of writ petitions were dismissed. Earlier Division Bench judgment of this Court in CWP No.23769 of 2011 titled as Om Parkash and others Versus State of Haryana and others decided on 15.12.2014 was also referred to.

It was further submitted that Special Leave Petition filed against the judgment of this Court in Chet Ram's case (supra) was dismissed as withdrawn on 31.08.2015 by passing the following order:-

“After arguing the matter at some length, learned counsel for the petitioner seeks leave to withdraw this special leave petition reserving liberty for the petitioner to seek such of the redress as is legally open to the petitioner in a Civil action before an appropriate court.

The special leave petition is dismissed as withdrawn with the liberty prayed for. We express no opinion on the merits of the fresh action which the petitioner may file or the defences that may be open to either party.”

After hearing learned counsel for the parties and considering the fact that acquisition of land owned by the petitioners being not complete and the dispute in the present case being only with reference to the agreement to sell entered into between the petitioners and a private person

and the sale-deeds executed as a consequence thereof, we do not find that any ground is made out to entertain the writ petition. Accordingly, the same is dismissed.

(Rajesh Bindal)
Judge

August 17, 2017
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No