

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP no.13695 of 2017 (O&M)
Date of Decision: June 13, 2017

Jinesh Chand Jain

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Alok Mittal, Advocate, for the petitioner.

Amol Rattan Singh, J. (Oral)

Learned counsel for the petitioner submits that, firstly, there is a judgment *in personem* qua the petitioner and the respondents, in CWP no.7025 of 2005 decided on 24.12.2008, a copy of which has been annexed as Annexure P-5 with the petition.

Vide the said writ petition, the petitioner sought quashing of the notification dated 11.04.2002 issued under Section 4 of the Land Acquisition Act, 1894, as also declaration issued under Section 6 thereof on 08.04.2003. That petition was allowed by this Court by the following order:-

“...In view of all the aforesaid, we allow this writ petition with direction to the respondents to pass appropriate order in accordance with law in regard to release of 3 kanals and 3 marlas land of the petitioner, comprising of Rect. No.319, killa nos.23(1-15) and 22/2 (1-8),

from acquisition and also the area of land measuring 533.93 square yards having A & C class constructions thereon since before the issuance of notification under Section 4 of the Act, out of a total area of 5 kanals and 8 marlas which comprised of Rect. No.330, Killa no.3/2, subject to usual terms and conditions. We also direct the respondent authorities to consider petitioner's claim in respect of remaining portion of land (out of 5 kanals and 8 marlas) having fruit bearing trees and park, in terms of prevalent policy applicable in the case of this land.”

Therefore, the contention of Mr. Mittal is that once the Division Bench had directed the respondent-Authorities to consider the petitioners' claim in respect of the remaining part of the land as was having fruit bearing trees and a park on it, the authorities were bound to comply with that order, which they have not, but the possession of the petitioners has not been disturbed thereafter.

He also points to photographs annexed as Annexure P-1 with the petition, the first few of which show a small construction on the land in question and the next part shows a petrol pump running, which is also stated to be on the land in question.

He next submits that even under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, the land would be liable to be released from the original acquisition, (which culminated in an Award dated 06.04.2005), possession of the land not having been taken for more than 5 years.

Whereas learned counsel may have an arguable point on both the issues aforesaid, however, very fairly he has also annexed along with a judgment of the Supreme Court in the case of **Uddar Gagan Properties**

Ltd v. Sant Singh and others (Civil Appeal no.5072 of 2016), passed on 13.05.2016, whereby the acquisition proceedings culminating in the Award dated 06.04.2005 are shown to be upheld, with an observation to the effect that the land covered by the Award and the notification issued prior to that vests in HUDA, free from all encumbrances, and HUDA may take possession thereof.

Though in that lis the petitioner is not shown to be a party, however, in our opinion, once the entire notification itself, acquiring the land in question was upheld, with their Lordships holding that the land covered by the notification vests in HUDA, then despite the order *in personem* between the petitioner and the respondents, eventually the direction of the Supreme Court would hold qua all such land.

However, Mr. Mittal further points to the fact that in the case of Sant Singh and others, i.e. respondents in the Civil Appeal, a writ petition has been entertained on the ground that the acquired land has not been taken possession of by HUDA and as such, would fall within the ambit of Section 24 of the Act of 2013.

To repeat, though the petitioner may have a good case under Section 24 of the Act of 2013, however, with the Supreme Court order being to the effect that the land covered by the notifications referred to above stands vested in HUDA, we find ourselves unable to entertain this petition.

If the petitioner has any grievance in that regard, in our opinion, his remedy was before the Supreme Court by way of an interlocutory application etc. and not before this Court.

Consequently, this petition is dismissed with the aforesaid observations.

Yet, the petitioner having made out a case before us, as per both the contentions, we deem it appropriate to order status-quo as it exists today for one month, to enable the petitioner to file an appropriate application before the Supreme Court for consideration of their Lordships.

(Amol Rattan Singh)
Judge

June 13, 2017
vcgarg

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned: Yes
Whether reportable: no