

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

CWP No. 18949 of 2015 (O&M)

Date of decision : 18.12.2017

Ramo 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. Udit Garg, Advocate for
Mr. Rajeev Anand, Advocate, for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Rajesh Bindal, J.

The petitioners have approached this Court claiming that acquisition in question has lapsed as neither compensation for the acquired land has been paid nor possession thereof has been taken.

Learned counsel for the petitioners submitted that the petitioners are co-owners of small portion of land measuring 0.13 acres in khasra no. 155(1-7-0), 156/1(0-3-8) and 156/3 (1-18-17) located at different places in Sectors 24, 25 and 25A, Gurugram, for development of which land in question is sought to be acquired. When notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') was issued on 26.8.2003, land measuring 16.05 acres of land was sought to be acquired, however, the area was reduced when notification under Section 6 of the 1894 Act was issued on 10.8.2004. It merely mentioned 14.04 acres of land. Even thereafter substantial land was either released from acquisition or

licenses were granted or it was noticed that some portion had already been acquired by different departments. Finally award was announced by the Land Acquisition Collector (for short, 'the Collector') including the land of the petitioners only for 3.08 acres of land. The land is located in small-small pockets at different locations. Other land all around has been developed by DLF, which is known as DLF Sector. It has been acquired for the purpose of transferring the same to DLF for its use. Otherwise the State cannot possibly plan the same being small-small pockets located at different places and not properly shaped. There is no inter-connectivity between different pockets. These pockets can have access through the DLF areas only. Unless the DLF consents to grant access to those areas, it will not be possible even to use those pockets. It is for this reason that no utilisation plan could be prepared by the State till date. The acquisition being not for public purpose deserves to be set aside.

It was further submitted that out of the total land which was acquired, acquisition of major portion has lapsed in view of 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 2013 Act"). The writ petitions filed by the landowners therein were allowed by this Court. In the case of the petitioners as well neither compensation has been paid nor possession thereof has been taken from them.

On the other hand, learned counsel for the State could not dispute the basic fact that the land for which finally award was announced, was substantially less than the area which was notified under Section 4 of the 1894 Act. He further did not dispute the fact that the land acquired vide notification in question is located in different-different pockets and further

no utilisation plan has been prepared till date. It is further not disputed that for the area around the acquired land, licenses have been granted to DLF. He further stated that the petitioners have not received the compensation for the acquired land.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, vide notification issued on 26.8.2003 under Section 4 of the 1894 Act, land measuring 16.05 acres was sought to be acquired for development and utilisation as residential, commercial, institutional, green belt in Sectors 24, 25, 25-A, Gurugram. The notification suggests, the land is located in revenue estates of villages Nathupur, Sarhol, Shahpur, Sikenderpur Ghosi and Dundhera, Tehsil and District Gurugram. The area notified while issuing notification under Section 6 of the 1894 Act was 14.04 acres. Thereafter award was announced by the Collector on 4.8.2006 only for 3.08 acres of land as rest of the land was either released or licenses were granted or it was found that the same was already acquired.

It is further not in dispute that no utilisation plan of the area could be finalised or the land utilized till date though award was announced 11 years back. It is further not in dispute that small-small portions of land, which was acquired vide impugned notification, will have no access in case DLF which has been granted the license for development of the entire sector does not grant the same to the State, as these portions of land are land locked. The area is known as DLF Sector. It was also pointed out that acquisition proceedings of some part of the land lapsed in view of the provisions of Section 24(2) of the 2013 Act vide common order passed in CWP No. 23622 of 2011 – Smt. Bhagwati and others vs The State of

Haryana and others, CWP No. 13796 of 2014 – Dharam Pal vs State of Haryana and others, and CWP No. 15720 of 2014 – Sushila and others vs State of Haryana and others, decided on 5.12.2017.

Civil Writ Petition No. 21519 of 2012- Archna Gupta vs The State of Haryana and others, decided on 29.11.2013 along with bunch of writ petitions, filed earlier by one of the landowners challenging the acquisition was dismissed upholding the acquisition. In that petition, it was directed that the State Government and the HUDA shall prepare utilisation plan of the acquired land in a time bound manner. It shall be notified within one year and the sites be utilized within two years thereafter. The land is not to be transferred to any private builder-cum-developer. On failure, the petitioner therein was given liberty to seek release of the acquired land. Special Leave to Appeal (C) No. 7360 of 2014, filed by the State against that order was dismissed by Hon'ble the Supreme Court on 6.2.2015. It remained undisputed that even for that portion of land no utilization plan has been prepared till date and the dilapidated construction raised thereon still exist on that area.

From the facts as have been noticed above, it is crystal clear that the land was not acquired for any public purpose as the same cannot possibly be utilized for the purpose it was acquired, rather it seems to be an exercise to benefit some other persons. The action otherwise also apparently is not keeping in view the public purpose as out of 16.05 acres of land notified under Section 4 of the 1894 Act, award was finally announced only for 3.08 acres of land and that too for small-small portions at different places. The compensation has not been paid to the petitioners for the acquired land.

For the reasons mentioned above, in our view, the acquisition
in question has lapsed in view of Section 24(2) of the 2013 Act.

The writ petition is allowed.

(Rajesh Bindal)
Judge

18.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No