

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

Date of Decision: 01.11.2017

1. R.S.A No.2034 of 2015(O&M)

Kidara and anotherAppellants

Versus

State of Haryana and others ... Respondents

2. R.S.A No.2035 of 2015(O&M)

Krishan and othersAppellants

Versus

State of Haryana and others ... Respondents

3. R.S.A No.3080 of 2015(O&M)

Sat Narain through his LR and anotherAppellants

Versus

State of Haryana and others ... Respondents

4. R.S.A No.2780 of 2015(O&M)

Mahabir through his LRs and othersAppellants

Versus

State of Haryana and others ... Respondents

5. R.S.A No.4328 of 2015(O&M)

Dalip and othersAppellants

Versus

State of Haryana and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Parveen Sharma, Advocate and
Mr. Deepak Sharma, Advocate
for the appellants in RSA Nos.2034,2035 and 3080 of

2015.

Mr. Ajay Ghangas, Advocate
for the appellants in RSA Nos.2780 and 4328 of
2015.

RAJ MOHAN SINGH, J.

[1]. By this common order, RSA No.2034 of 2015, RSA No.2035 of 2015, RSA No.3080 of 2015, RSA No.2780 of 2015 and RSA No.4328 of 2015 are being decided. As common questions of law and facts are involved in these appeals, therefore, the facts are being taken from RSA No.2034 of 2015.

[2]. Plaintiffs are in second appeal against the concurrent judgments and decree passed by the Courts below.

[3]. Plaintiffs filed a suit for declaration with consequential relief of permanent injunction to the effect that they are owner in possession of agricultural land detailed in the head-note of the plaint, revenue entries and mutations in favour of defendant No.1 are null and void. Permanent injunction was also sought against the defendants, restraining them from dispossessing the plaintiffs from the suit property or creating any encumbrance over the suit property by entering into any further mutation or making any adverse entry in the record. Plaintiffs claimed the suit property to be ancestral property of the plaintiffs which was acquired by Government of Haryana for installing brick kiln for the purpose of preparing bricks for lining the Western Yamuna

and Delhi Parallel Canal. The land was acquired. The predecessor of the plaintiffs did not receive any compensation. After completion of the project and fulfilment of purpose for which the land was acquired, the land was declared surplus by the Irrigation Department.

[4]. Plaintiffs further alleged that Government had framed standing order No.28 in respect of land to the effect that when agricultural land was acquired for public purposes by any Government functionaries and thereafter, if such land is no longer required for such purpose, the disposal of such land be made as per general consideration mentioned in para Nos.493 to 495 of the Land Administration Manual.

[5]. Before the Trial Court, both the parties projected their cases. Plaintiffs alleged that the land was ancestral and the same was acquired by Government for setting up a brick kiln for the purposes of preparing the bricks for lining the Western Yamuna and Delhi Parallel Canal for which no compensation was paid to the predecessor-in-interest of the plaintiffs. After completion of the work, the land became public premises/surplus in the hands of Irrigation Departments and as per the standing order of the Government, the land has to be reverted back to the owners and has to be disposed in terms of Land Administration Manual in view of para Nos.493 to 495.

[6]. Plaintiffs also relied upon the instance of one Sobha Chand and Raghunandan of village Naraina whose land was re-mutated vide order No.2538 DRA dated 07.08.1990. Plaintiffs also relied upon the instance of one Surja Singh whose land was acquired by the Government of Haryana and he was also declared absolute owner in possession of land measuring 11 kanals, 5 marlas by the Court vide judgment and decree dated 07.06.2004 passed by the Additional District Judge, Sonapat. Similarly, **Civil Suit No.240/91** was also instituted titled **Surja and others Vs. Secretary, Irrigation, Haryana and others.**

The said suit was decreed on 19.01.2000 and the same was upheld upto Hon'ble Apex court. By relying upon such instances, plaintiffs sought to highlight the provisions of the Government policy in order to seek declaration as owners in possession of the suit property.

[7]. Defendants projected the case that the land was lawfully acquired, for which the compensation was duly deposited in the Treasury. After acquisition, the mutation was sanctioned in favour of the Government. The land was not only declared to be surplus, rather the same vested in the Government and the plaintiffs have no locus to seek return of the land. Defendants alleged that the plaintiffs took illegal possession of the land and are liable to be ejected from the

same. Hon'ble Apex Court as well as High Court have already decided the issue in favour of the defendants. High Court in **CWP No.9152 of 2007** titled **Smt. Leela Wanti and others Vs. State of Haryana and others** and Hon'ble Apex Court in Civil **Appeal No.9603 of 2011** have settled the controversy.

[8]. After taking stock of the situation, trial Court decided the case on the premise that there is no rule of law that if the land was acquired for a specific purpose, then on completion thereof, the same would be reverted back to the previous land owners if the same has become available after utilization towards original purpose. The land already stood vested in the State of Haryana and the defendants are competent to utilize the same for any purpose according to the changed condition. The object of the utilization of the land cannot be presumed static in nature, rather it has to be dynamic with the change of circumstances. Hon'ble Apex Court in **Civil Appeal No.9603 of 2011** has held that para No.493 of the Land Administration Manual does not suggest that the State Government is duty bound to restore the acquired land to the owners after fulfilling the purpose for which the same was acquired by the State. In para No.18 of **Civil Appeal No.9603 of 2011**, it was observed by the Hon'ble Apex Court that the judgment of the Court in **State of Haryana Vs. Suraj (supra)**, was based on its own

facts and proposition of law laid therein, therefore, the same was not treated to be a binding precedent to be followed in all subsequent cases. Trial Court proceeded to dismiss the suit on merits. Plaintiffs remained unsuccessful in appeal.

[9]. The entire controversy is based on the verdict pronounced by the Hon'ble Apex Court on the subject in issue. Evidently, the decisions rendered by the High Court in **CWP No.9152 of 2007** and by the Hon'ble Apex Court in **Civil Appeal No.9603 of 2011** have definite say in the controversy, wherein it was culled out that even as per para No.493 of the Land Administration Manual, Government is not duty bound to restore the possession of the acquired land to the owners after completion of the purpose for which it was acquired and thereafter, the land became available in the hands of the State. The decision rendered by the Hon'ble Apex Court in **State of Haryana Vs. Suraj's case (supra)** was held to be not binding on all other cases and it was held that the decision rendered therein was based on the facts and circumstances of that very case only.

[10]. Both the Courts have concurrently deliberated upon the factual matrix of the case. No evidence could be led by the plaintiffs in respect of non-payment of compensation, whereas as per stand of the defendants, the compensation was duly

deposited in the Treasury.

[11]. On the proposition involved in the present case, reference can be made to the ratio laid down by the Hon'ble Apex Court in **State of Kerala Vs. M. Bhaskaran Pillai, 1997(5) SCC, 432**, wherein it was held that the land can be utilized for any other purpose, if the land was received by the State after fulfilment of original purpose. In **Government of A.P. Vs. Syed Akbar, 2005(1) SCC, 558**, it was held that in the said set of circumstances where the land was acquired by the State for a definite purpose, a civil suit is not maintainable and the title over the acquired land would be decided in some other proceedings. In **Laxmi Chand and others Vs. Gram Panchayat, Kararia and others, 1996 AIR SC 523**, the proposition was further endorsed and the cumulative effect of all the decisions of the Hon'ble Apex Court would be to hold that after acquisition of the land by the State authority for a specific purpose and the land so received by the State after fulfilment of the original purpose, would be a public premises and the purpose for utilization can be changed by the State according to any other public purpose and the land is not to be restored back to the original owners.

[12]. In the light of facts on record, I am of the view that no law point worth cognizance is involved in the present appeals. The appeals are found to be totally bereft of merits and the

same are accordingly dismissed. If any remedy is available to the appellants, they would be at liberty to avail it in accordance with law.

01.11.2017	(RAJ MOHAN SINGH)
prince	JUDGE
Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No