

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

CWP No. 2929 of 2020 (O&M)
Date of Decision: 30th September, 2020

Mahabir Singh Tanwar and others

....Petitioners

VERSUS

State of Haryana and others

....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Rajiv Sharma, Advocate for the Petitioners.
Mr. Ankur Mittal, Additional Advocate General, Haryana.
Mr. Kulbhushan Sharma, Advocate
for the Applicant/Respondent No. 5

Dr. S. Muralidhar, J.

1. 29 Petitioners have filed the present petition seeking a writ of certiorari to quash the allotment letter dated 13th March, 2013 and a possession certificate dated 9th April, 2013 issued by the Estate Officer, Haryana Urban Development Authority ('HUDA'), Faridabad (Respondent No. 4), in favour of M/s Greater Delhi Planners Private Limited (Respondent No. 5), in respect of the land measuring 1 *kanal* 12 *marlas* in Khasra No. 25//2/1 situated in the revenue estate of Village Palla No. 1, Tehsil and District Faridabad.

2. The other prayers are for quashing a notification dated 24th January, 2008 issued by the Urban Estate Department, Haryana Government under Section 4 of the Land Acquisition Act, 1894 ('LAA') and a notification dated 25th January, 2008 under Section 6 of the LAA, followed by an award dated 24th April, 2009 passed by the Land Acquisition Collector ('LAC'), Faridabad *qua* the aforementioned land.

3. The contention of the Petitioners is that predecessors-in-interest owned and possessed land measuring 6 *kanals* and 8 *marlas* in the aforesaid

location in village Palla No. 1, which stood acquired pursuant to the aforementioned award dated 24th April, 2009 of the LAC for the “development and utilization as master plan road, green belt and part of residential sector 34 in Faridabad”. The Petitioners claim that out of 6 *kanals* and 8 *marlas*, the Respondents have utilized 1 *kanal* 12 *marlas* for the road and 3 *kanals* 4 *marlas* for the green belt. They claim that remaining land to the extent of 1 *kanal* 12 *marlas* was lying vacant.

4. The further allegation of the Petitioners is that the officials of Respondents Nos. 1 to 4 were in connivance with Respondent No. 5 and were bent on depriving the Petitioners of the aforementioned land measuring 1 *kanal* 12 *marlas*. The Petitioners aver that they came to know of the allotment of the above land to the Respondent No. 5 and then sought information by filing an application under the Right to Information Act, 2005 (RTI Act).

5. Mr. Rajiv Sharma, learned counsel for the Petitioners has placed reliance on the reply dated 22nd January, 2016 under the RTI Act, in which it is *inter alia* stated that no direction was given by the Director General, Town and Country Planning to the Land Acquisition Officer (‘LAO’), Faridabad regarding acquisition of the above land. His contention is that the Respondent Nos. 1 to 4 cannot be permitted to acquire the land of private land owners for selling it to colonizers against the procedure established by law.

6. It is required to be noted at the outset that earlier, there were two rounds of challenge to these very acquisition proceedings which culminated in the Award dated 24th April, 2009. In the short reply filed by the Respondent Nos. 3 and 4 to the present petition, it is pointed that CWP No. 11568 of 2005 (*Om Parkash v. State of Haryana*) had been filed challenging the notifications under Sections 4 and 6 of the LAA as well as the Award. The writ petition was dismissed by this Court by an order dated 10th July, 2008. Further, the SLP (C) No. 2495 of 2009 filed against the said order also stood dismissed by the Supreme Court on 12th July, 2010.

7. For a second time, CWP No. 3238 of 2012 (*Dharambir v. State of Haryana*) was filed in this Court, which also stood dismissed on 11th October, 2012. A reference was made in the said order to a letter dated 10th April, 1969 addressed to the colonizer stating that the Government could acquire a small pocket of land in the colony at the cost of the colonizer in case the colonizer was unable to purchase it by private negotiations. The writ petition was dismissed after noticing that the writ petition of the co-sharer already stood dismissed earlier and the writ petition before the Court had been filed after the Award was announced and possession taken.

8. The third petition being CWP No. 37568 of 2019 was filed by these very Petitioners seeking a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and praying for release of the land in question. By an order dated 13th January, 2020, the writ petition was dismissed with liberty to Petitioners to espouse any other cause of action which may accrue to them.

Thereafter the present petition has been filed seeking the reliefs noticed hereinabove.

9. The question of quashing the land acquisition proceedings at this stage when two earlier petitions seeking the same reliefs stood dismissed, cannot be permitted. As rightly pointed out by the Respondents, even if the allotment made in favour of the Respondent No. 5 of land to the extent of 1 *kanal* 12 *marlas* was done by the orders dated 13th March, 2013 and 9th April 2013, the challenge to these orders was sought to be made more than six years thereafter.

10. The reply filed by the Respondent Nos. 3 and 4 also points out that way back on 10th April, 1969, the Respondent No. 5 was granted change of land use ('CLU') permission to set up a colony. The said permission letter contained a condition at serial no. 6, which condition has already been noticed hereinbefore.

11. Even as per the policy dated 7th August, 1991 of HUDA, whenever small pockets are left out within a licenced area, which the colonizer was unable to acquire through negotiations, such pockets could be acquired by the HUDA in the interest of planned and harmonious development. The action of the Respondent Nos. 3 and 4 in making the allotment of the land in question to the Respondent No. 5 is consistent with this policy and cannot be said to be contrary to law.

12. The application filed on behalf of Respondent No. 5 (CM-9717-CWP-2020), seeking vacation of the interim order passed by this Court in the present petition on 20th February, 2020, also sets out details pertinent to determining the legality of the allocation of the land in question to Respondent No. 5. It is mentioned in the application that the land allotted to the Respondent No. 5 is indicated as part of the layout plan and the zoning plan as sanctioned by the State Government and thus forms the part of the planned development of Section 34, Faridabad.

13. It is averred in CM-9717 that the land allotted to the Respondent No. 5/Applicant is in consonance with the object for which it was acquired. It is further stated that the said land has been utilized for carving out five plots being Plot Nos. 101 to 105 and that the “same have already been sold to the intending purchasers, who got their plans sanctioned from the competent authority and were constructing their respective houses on the said plot in accordance with the approved plan”.

14. It is *inter alia* stated in para 14 of the aforementioned application as under:

“...the Applicant had paid substantial consideration for a small pocket of land measuring 1 *kanal* 3 *marlas*, which otherwise could not have been utilized by the HUDA department as it was surrounded by the colony developed by the Applicant on three sides and by green belt on one side and thus there was no approach road. Also, it was affecting the half of the five plots of the approved layout plan of the colony developed by the present Applicant and while granting permission for CLU there was a specific cause that the government will acquire the pocket of the land affecting the planning of the colony, under these circumstances as small pocket of the land i.e. 1 *kanal* 3 *marlas* out of 6 *kanals* 8 *marlas* was allotted to the Applicant.

15. Mr. Rajiv Sharma, learned Counsel for the Petitioners submitted that the Respondents No. 1 to 4 connived with the Respondent No. 5 to deprive the Petitioners of the aforementioned land to the extent of 1 *kanal* 12 *marlas*, which was not utilized by HUDA for the original purpose for which it was acquired. According to him, the land should be reverted to the present Petitioners. He claimed that no compensation of the land has been given to the Petitioners till date.

16. As already noticed, after the completion of the land acquisition proceedings, the entire extent of the land acquired stood vested in the Government and it included the aforementioned land to the extent of 1 *kanal* 12 *marlas*. Consequently, the Petitioners do not have any *locus standi* to insist that to the extent the acquired land remained unutilized it should revert to them. Further, the circumstances under which the said extent of the land stood allotted to the Respondent No. 5 have been clearly explained. The Court is therefore unable to agree that there is any illegality attaching to the said allotment. In any event, the question of entertaining a petition for quashing of the land acquisition proceedings at this stage, after two such earlier attempts have failed, does not even arise.

17. For all of the aforementioned reasons, this Court finds no merit in the present petition. It is dismissed as such. The interim order dated 20th February, 2020 hereby stands vacated. The papers handed over to the Court in a sealed cover by the Respondents No. 1 to 4, as noted by this Court in its order dated 20th February 2020, be returned forthwith to the Respondent Nos. 1 to 4 through Mr. Ankur Mittal, Additional Advocate General, Haryana.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

30th September, 2020
jk

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No