

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

CWP-18336-2020

Date of decision: 03.11.2020

Innovative Infradevelopers Pvt. Ltd.

....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Vikas Bahl, Senior Advocate with
Mr. Kartik Gupta, Advocate &
Ms. Eliza Gupta, for the petitioner.

AJAY TEWARI, J. (ORAL)

1. This petition has been filed against the order 10.06.2020 whereby the claim of the petitioner was rejected.

2. The case of the petitioner is that his predecessors-in-interest were owners of 26 kanals 17 marlas of land in question which was proposed to be acquired by the State of Haryana vide notification dated 27th August, 2004 under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'). Within few days thereafter, the predecessors-in-interest of the petitioner moved an application for release of the land and applied for grant of Change of Land Use (CLU). Subsequently, some of the land was released but the land in question was notified under Section 6 of the Act. The predecessors-in-interest filed Civil Writ Petition No.3764 of 2006, titled as Ashok Kumar and others vs. State of Haryana and others, challenging the notification under Section 6 of the Act. On 31st July, 2007, the Government issue release order in respect of the land in question and

thereafter that writ petition was withdrawn. After release order the land was sold to the petitioner who then proceeded to construct a commercial complex after obtaining all the necessary permissions and in fact executed about 155 Conveyance Deeds to further purchasers. Thereafter, some other landowners approached the Supreme Court challenging the decision dated 24th August, 2007 whereby the entire land was denotified. The stand of those landowners was that this entire exercise was a fraud and only to benefit some of the people and it was on those circumstances that the Supreme Court decided the case in the following terms:-

“39. Having bestowed our attention to various competing elements and issues we deem it appropriate to direct:

(a) The decisions dated 24.08.2007 and 29.01.2010 referred to hereinabove are set aside as being brought about by mala fide exercise of power. In our considered view, those decisions were clear case of fraud on power and as such are annulled.

(b) The decision dated 24.08.2007 was taken when the matters were already posted for pronouncement of the award on 26.08.2007. Since all the antecedent stages and steps prior thereto were properly and validly undertaken, and since the decision dated 24.08.2007 has been held by us to be an exercise of fraud on power, it is directed that an Award is deemed to have been passed on 26.08.2007 in respect of lands (i) which were covered by declaration under Section 6 in the present case and (ii) which were transferred by the landholders during the period 27.08.2004 till 29.01.2010 (emphasis supplied). The lands which were not transferred by the landholders during the period from 27.08.2004 till 29.01.2010 are not governed by these directions.”

3. The precise contention of learned Senior Counsel is that the observations and the context in which the judgment of the Supreme Court was passed was not applicable to the case of the petitioner whose case was entirely distinguishable to the case set up in the Supreme Court and therefore, the land of the petitioner should not be held to be covered by the Award for the following reasons:-

I. The price of the land shows that the petitioners had purchased at the market value.

II. The release on 31st July, 2007 was not challenged before the Supreme Court.

III. The sellers have given affidavits that they have not sold the property under any pressure, unlike the petitioners before the Supreme Court whose whole case was that their lands had been purchased under the pressure of the government.

In our considered opinion, in view of the categorical direction of the Supreme Court, it would not be possible for this Court to second guess what their Lordships intended.

Petition is dismissed.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

03.11.2020
m. sharma

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No