

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.20284 of 2020

Date of Decision:-27.11.2020

Virender Singh & Anr.

.....Petitioners.

Versus

The State of Haryana & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present:- Mr. Sidharath Goyal, Advocate for the Petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

JASWANT SINGH, J.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court]

Two (2) petitioners have filed the present writ petition, seeking directions from this Court to respondents for releasing their land on the ground of parity with similarly situated person namely Mahender Singh having land in the same village Kanhai arising out of same acquisition proceedings, whose land was released vide letter of intent dated 21.11.2017(Annexure P-17) subject to certain conditions mentioned therein.

It is contended by learned Counsel for petitioners that although a joint inspection committee had recommended release of land of petitioners vide its report dated 09.12.2006, however same was not approved by the respondent no 1 viz. Additional Chief Secretary, Town and Country

Planning department. It is argued that even after acquisition proceedings were over and award was passed, the land of atleast eight (8) similarly situated persons has been released and reference in this regard has been made to copies of release orders appended as **Annexure P-12 to P-14** dated 18.12.2002, 22.08.2012 and 26.06.2012 respectively. It is finally submitted that recently, land of Mahender Singh has also been released vide letter of intent dated 21.11.2017 (**P-17**) and petitioner is entitled for similar benefit of release of land. Hence, prayer has been made for allowing the instant writ petition.

Per contra, learned State Counsel, who is present in court being on advance notice and has submitted a short note detailing the facts of the case, has submitted that possession of petitioner's land was taken on 23.03.1993 after releasing 10 marlas of land and petitioner had received the compensation thereof. Further, it is argued that previously petitioner made a representation for release of his land by relying upon release orders passed in other cases, however, the said request was declined on 20.02.2014 (**P-16**), which has not been put to challenge till date and thus, present claim is time barred. It is also argued that the release orders relied upon by petitioners were passed in pursuance to the writ petitions filed by other landholders in the year 1992 itself, which were allowed on 18.01.2011. Consequently, their land was released and remaining land was acquired, which included the land of petitioners. As far as the land of Mahender Singh is concerned, it is argued that his land was released in view of the directions given by this Court passed in CWP No. 15666 of 2015 (A-1 appended with the note), which was disposed off in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013, wherein the Court had directed the State to decide his representation. In pursuance to the said order dated 03.08.2015, the land of Mahender Singh was released subject to conditions mentioned in the release order (**P-17**), however, the said order cannot be made as a ground for release of land now, in view of the latest interpretation given by Hon'ble Supreme Court in **Indore Development Authority Vs Manoharlal and others** cited as **AIR 2020 SC 1496**. It is finally submitted that father of petitioner had also filed a CWP No. 5339 of 2014 claiming relief under Section 24(2) of the Act, 2013, however the said writ petition was dismissed on 17.11.2020. However, all these facts have not been brought to the notice of this Court and therefore prayer has been made for dismissal of writ petition.

We have heard learned Counsel for the parties at length and have scrutinized the paperbook with their assistance. We are of the view that present writ petition is liable to be dismissed.

Admittedly, the acquisition proceedings stood concluded for the land in question on 23.03.1993, when award was passed and petitioners withdrew the compensation for the land in question. It is also not in dispute that possession of the land was taken on 23.03.1993 and the same stood reflected in the revenue record as a *rapat* to this effect was sanctioned. Meaning thereby, all the ingredients of completing an acquisition were fulfilled in the year 1993 itself and the petitioners were also satisfied. On the contrary, it is some of the other landholders of the village who challenged the acquisition proceedings in the year 1992 by filing CWP No. 6129 of 1992 and 7079 of 1992. These writ petitions were allowed on 18.01.2011 and on the basis of this order, their land was ordered to be

released vide documents Annexure P-12 to P-14. Thus, it is clear that the circumstances leading to release of land of other landholders and present petitioners are different.

Similarly, the release order of Mahender Singh (P-17) is also of no help to petitioners as the land was released in that case on account of order passed by this Court in view of Section 24(2) of the Act, 2013 as interpreted by the Hon'ble Supreme Court in **Pune Municipal Corporation Vs Harakchand Misirimal Solanki (2014(1) CTC 755)**. However, we fail to see how Section 24(2) would be applicable to petitioners even at that point of time, as petitioners had received the compensation and possession was also not with them, atleast in the official documents. Be that as it may, the writ petition filed by father of petitioners bearing CWP No. 5339 of 2014 claiming release of land on the strength of section 24(2) of the Act, 2013 also stands dismissed by this Court on 17.11.2020 in view of the latest judgment passed by Hon'ble Supreme Court in **Indore Development Authority's case (supra)** and therefore the petitioners cannot claim parity with the said order as well.

On the contrary, it is seen that the writ petitioners have been trying to revive a time barred claim by concealing true and material facts from this court. As rightly pointed out by the State Counsel, once their representation for release of land was dismissed on 20.02.2014 (P-16) they ought to have challenged the order immediately. However, they chose not to challenge it, as by that time their father had already filed a writ petition. It is unfortunate that parties are ready to go to any length for claiming relief even by concealing material facts from the court. This is evident from the pleadings of the present case, whereby neither the factum of taking over of

possession by respondents nor filing of previous writ petition by father of petitioners has been mentioned anywhere in the writ petition. Further, there is no mention that 10 Marlas of land was released from acquisition at one point of time. This act and conduct of writ petitioners itself bars them from seeking any relief and ordinarily concealment of such material facts is sufficient to not only dismiss the writ petition but also impose heavy costs. However, we refrain ourselves from imposing any costs and simply order the dismissal of the writ petition in view of the facts of the case.

In view of the above, finding no merit in the instant writ petition, the same is hereby **dismissed**.

(JASWANT SINGH)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

November 27, 2020

Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No