

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10008-2021 (O&M)

Date of decision:08.10.2021

Pooja Kapoor

...Petitioner

V/s.

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Vikram Singh, Advocate for the petitioner.

Mr. Ankur Mittal, Addl.A.G., Haryana with
Mr. Saurabh Mago, A.A.G., Haryana.

Ritu Bahri, J.

CM-14961-CWP-2021

Application is allowed and sale deed dated 26.04.2010 as
Annexure P-8 is taken on record.

CWP-10008-2021

The petitioner is seeking direction to respondents to release her residential house measuring 130 Sq. Yards and to take action on her application dated 23.11.2020 (Annexure P-7) by passing a speaking order.

The brief facts of the case are that the plot shop of the petitioner is situated in Bazida road in Ram Dev Nagar which is the part of Khasra Nos. 3045 and 3046. The petitioner has purchased 130 sq. yds. plot and constructed foundations etc. thereon, prior to the date of notification under Section 4 of the Land Acquisition Act, 1894. She has placed on record notification dated 11.07.2006 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as Act, 1894) whereby her land was sought to be acquired for the purpose of expansion of

industrial estate, Section 3 at Karnal, Kasba Karnal, Tehsil and District Karnal. Thereafter notification dated 16.07.2007 was issued under Section 6 of the Act, 1894 (Annexure P-2) whereby total land of 315 Bighas 4 Biswas was sought to be acquired including the land of the petitioner. Award was announced on 23.06.2009.

The grievance of the petitioner is that Government while exercising powers under Section 4 of the Act, 1894 ordered to release the surrounded area of the plot of the petitioner from acquisition and this released area is part of Ram Dev Nagar colony. She has further placed on record letter dated 27.06.2011 attached as Annexure P-4 whereby Senior Manager, HSIIDC recommended release of the constructed houses of the adjoining area of Khasra Nos. 3045 and 3046. Similarly situated persons filed CWP Nos. 5211 and 5248 of 2014 which were decided on 11.03.2014 and after the recommendation made by the officials, the petitioner made a representation dated 14.05.2013 (Annexure P-5) that her plot falls under Khasra Nos. 3045 and 3046 and the same be also released.

Thereafter the petitioner approached this Court by filing CWP-11253-2015 which was dismissed as withdrawn with liberty to approach the concerned authority for the above said relief. She further made representations dated 18.08.2015 (Annexure P-6) and 23.11.2020 (Annexure P-7) and in this backdrop, she has filed the present writ petition.

On 20.07.2021 when this writ petition came up for hearing, learned counsel for the State informed that as per revenue record, name of the petitioner was not reflected as one of the owners and petitioner had sought time to placed on record the sale deed to show from whom she had purchased the property. Vide CM-14961-CWP-2021, the petitioner has

placed on record translated copy of sale deed dated 26.04.2010 (Annexure P-8). A perusal of this sale deed shows that Subhkaran son of Shri Pyarelal son of Shri Ramchand of village Budanpur Abad Tehsil and District Karnal resident of Ramdev colony Bazida road Karnal had sold his house to the petitioner for an amount of Rs.4,15,000/-, measuring 130.5 sq. yds. which is situated in Khasra Nos. 3045-3046 and its possession has been given to the petitioner.

The sale deed in favour of the petitioner was executed on 26.04.2010 and award in this case was passed on 23.06.2009, meaning thereby, the petitioner has become owner of the land after passing of the award. The petitioner has nowhere stated that there is a recommendation made by HSIIDC for release of land to any person who became owner of the land after passing of the award. Annexure P-4 is the letter dated 27.06.2011 issued by HSIIDC for release of land in Khasra Nos. 3051, 3052, 3053, 3055, 3056, 3259 and 3262 after making survey. In this letter, it is specifically mentioned that there was no representation made by owners of Khasra Nos. 3045 and 3046 for release of their houses. The plots were purchased by most of the owners prior to the date of notification under Section 4 of the Land Acquisition Act. Copies of the ownership record in this regard were enclosed. The size of the plots owned by the applicants were of size ranging from 50 sq. yds., 100 sq. yds., 150 sq. yds. to 250 sq. yds. which were generally used for residential houses by the economically weaker section of the society. 5-6 houses were constructed and the rest of the houses were in the process of being constructed. At page 33 of the paper-book, it is stated that possession of Khasra Nos. 3045 and 3046 had not been handed over by the Revenue Department despite dismissal of

petitions by High Court due to strong opposition by the residents and in this backdrop, the residences/structures of Khasra Nos. 3045 and 3046 were recommended to exclude from the planning and if possible temple constructed on Khasra No. 3047 may be accommodated in the planning in the grater interest of the socio-economic structure of the society.

In the present case, the petitioner is claiming parity of release of land keeping in view that the land in Khasra Nos. 3045 and 3046 had been recommended for release as per letter dated 27.06.2011 (Annexure P-4). In this letter, it is specifically stated that the plots were purchased by most of the owners well prior to the date of notification under Section 4 of the Land Acquisition Act. Meaning thereby, the land of only those owners would be released who have become land owners prior to the date of notification and in the present case, the petitioner has purchased the land on 26.04.2010 even after the date of passing the award i.e. 23.06.2009.

In the present case, there are two points for consideration. First, whether the petitioner can seek release of land which was purchased after announcing the award on 23.06.2009. Second, whether the writ petition is maintainable after a gap of 11 years of passing the award.

The petitioner has purchased the land in the year 2010 i.e. after announcing the award. Further, the petitioner has filed writ petition in the year 2021 and award was passed in 2009 i.e. after 11 years. Hence, on both the points, writ petition is liable to be dismissed.

At this stage, reference can be made to a judgment passed by this Court in **CWP-4397-2019** titled as ***Kiran Bansal and another Vs. State of Haryana and others***, decided on 07.09.2021 in which same notification was under challenge. In this case, the petitioners therein were seeking

release of land under Section 48 of the Land Acquisition Act, 1894. The petitioners also filed CWP-4757-2015 for seeking release of their land in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013') which was dismissed on 16.07.2018 on the ground that after passing of the award in the year 2009, five years had not been lapsed from the date of the award and provisions of Section 24(2) of the Act, 2013 could not be invoked. In this judgment, reference was made to 17 writ petitions with respect to same notification, which were dismissed on the ground that petitioners therein had filed writ petitions after a period of six years of the announcement of award.

In the present case, petitioner became owner of the land in the year 2010 i.e. after passing of the award on 23.06.2009. However, she made her first representation on 18.08.2015 (Annexure P-6) i.e. after a gap of six years of passing award and second representation was made on 23.11.2020 (Annexure P-7) i.e. after a gap of 11 years of passing award. The writ petition has been filed on 20.04.2021. There is a delay of more than 11 years in approaching this Court.

Hence, on the ground of delay, writ petition is dismissed.

(RITU BAHRI)
JUDGE

08.10.2021

Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No