

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15119 of 2021 (O&M)

Date of decision: 16.09.2021

Ram Kishan and another

...Petitioners

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Neeraj Saini, Advocate,
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana,
and Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J. (Oral)

Petitioners are seeking quashing of the notifications dated 20.01.2003 and 16.01.2004 (Annexures P-2 and P-3) under Sections 4 & 6 of the Land Acquisition Act and the impugned Award dated 11.01.2006 (Annexure P-4) passed by respondent No.4-Land Acquisition Collector, Faridabad.

On 10.08.2021, when this case was taken up for hearing, learned counsel for the petitioners had referred to the judgment dated 20.12.2013 passed by this Court in **Sant Singh and others vs. State of Haryana and others**, 2014 (2) RCR (Civil) 310, to contend that even if, the compensation has been accepted by the land owners and the land qua other land owners has been released, the parity of land released will be available

to if, the petitioners can claim benefit under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for release of the land on the ground that this land had not been utilized for the purpose, for which, the same had been acquired. Further, he was to assist on the point that once, the entry of rapat roznamcha has been made in favour of the State and compensation has also been made to the land owners, how the petitioners' case for release of land can be considered.

In para no.9 of the petition, details of the license area released after issuance of the notification under Section 6 of the Act, have been given, which are reproduced as under:-

Sr. No.	Name of Colonizer/Company	Total Area in acres
1	M/s Omaxe Housing & Dev. Ltd.	213.62
2	M/s Maksad	70.69
3	M/s in Time Promoters	20.91
4	M/s Parsavnath	84.12
5	M/s Aakarshak	9.35
6	M/s Apex Group Housing	10.18
	Total	418.87

Most of the land has been released in favour of private builders/developers/housing companies. About 80% of the land has been released from acquisition proceedings and no development scheme/plan has been executed and achieved by the respondents. The above said notifications were challenged by some of the landowners by filing CWP-5104-2006, titled as **Hariom Parkash and another vs. State of Haryana and others**, which was allowed by a Divison Bench of this Court vide judgment dated 04.02.2014 (Annexure P-7) by giving direction to the

respondent-authorities, which is reproduced as under:-

“26. We thus direct the respondent-authority to conduct a fresh survey/demarcation of the area and release the petitioners' land beyond what is needed for construction of roads. The petitioners shall be entitled to compensation to the extent of utilization of their land for roads. The question, whether they are entitled to compensation under the new Act or the old Act, is left open with liberty to the petitioners to raise it before the appropriate Forum.”

This direction was given on 04.02.2014 and the petitioners made an application on 27.01.2017 (Annexure P-8) to the Tehsildar, Sonipat along with the report of Halqa Patwari to show that they were in cultivating possession of the land.

Short grievance of the petitioners is that as per site plan (Annexure P-9), land of the petitioners is surrounded by the released area, which belongs to the private builders and colonizers and at this stage, this land cannot be utilized by the State Government for any purpose.

Petitioners have filed this petition on 25.07.2021 and they were not party to the earlier petition i.e. CWP-5104-2006 (**Hariom Parkash and another vs. State of Haryana and others**), decided on 04.02.2014 (Annexure P-7). They are claiming release of the land on the ground that 80% of the land has been released from the acquisition proceedings and their land is surrounded by the land of colonizers.

In the present case, petitioners cannot claim parity with the petitioners, who had approached this Court way back in the year 2006 by filing CWP-5104-2006. They should have approached this Court in time and even after the decision given in CWP-5104-2006 on 04.02.2014 (Annexure P-7), they have filed this petition on 25.07.2021 i.e. after a gap of almost 07 years. This delay goes against them. As per the judgment

CWP-19246-2017 (decided on 30.07.2021), the petitioners cannot claim parity of release of land keeping in view that Hon'ble the Supreme Court in V. Chandrasekaran vs. Administrative Officer, 2012 (12) SCC 133, had observed that the State has discretion to release the acquired land, of which, possession has not been taken and the land-owners cannot take benefit of the order, whereby land of other land owners has been released, who had approached the Court well in time. The above said fact goes against the petitioners. In the aforesaid judgment, reference has been made to another decision given by Hon'ble the Supreme Court in Om Parkash vs. Union of India and others, 2010 (4) SCC 17, wherein it has been held that if, the writ petitions challenging the acquisition proceedings have been allowed and benefit of land release has been extended, then the other land owners cannot seek the same benefit, who had not approached the Court in time and had gone into slumber. Further reference has been made to the judgment passed in Indore Development Authority vs. Manoharlal and others, AIR 2020 SC 1496, wherein it has been held that as soon as the possession is taken after passing of the award, vesting of rights of land takes place in favour of the State. If, no compensation has been paid, then as per Sections 31 and 34 of the Land Acquisition Act, 1894, benefit of interest can be given and non deposit of money only carries interest as per Section 34 of the said Act. As per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition and Re-settlement Act, 2013, if the compensation is not deposited by the Collector with respect to the majority of the landholdings, all the beneficiaries are entitled for higher compensation. Once, physical possession is taken after entering the *Rapat Roznamcha*, then as per Section 16 of the Act, land vests in the State and

acquisition proceedings do not lapse. Judgment referred to by learned counsel for the petitioners in **K.B. Ramachandra Raje and others (Dead) by Lrs. vs. State of Karnataka and others**, 2016 (3) Recent Apex Judgments (R.A.J.) 55 will be of no help to the petitioners, as in that case, Hon'ble the Supreme Court had observed that the petitions, if they are filed after illegalities and violations of statutory provisions comes to the knowledge of the petitioners, then the delay will not stand in the way of the Court in exercising the plenary jurisdiction under Article 226 of the Constitution of India.

In the present case, major chunk of the land was released when notification under Section 6 of the Land Acquisition Act was issued way back in the year 2004. Petitioners were well aware about the release of land, but did not file any petition challenging the said notification. Some of the land-owners had approached this Court by filing CWP-5104-2006, titled as **Hariom Parkash and another vs. State of Haryana and others**, which was allowed by a Division Bench of this Court vide judgment dated 04.02.2014 (Annexure P-7) by giving direction to the respondent-authority to conduct a fresh survey/demarcation of the area and release the petitioners' land beyond what is needed for construction of roads. The present petitioners cannot claim parity with those petitioners/land-owners, who had approached this Court immediately in the year 2006. They cannot take the benefit of aforesaid judgment by approaching this Court in the year 2021 after a delay of almost 15 years. Hon'ble the Supreme Court in **Indore Development Authority's** case (supra), has clarified that once the *Rapat Roznamcha* has been entered, physical possession vests with the State.

quashing of the impugned notifications dated 20.01.2003 and 16.01.2004 (Annexures P-2 and P-3 respectively) and the Award dated 11.01.2006 (Annexure P-4). Resultantly, finding no merit, present petition stands dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

16.09.2021
ajp

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