IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216 **CWP-14445-2020 (O&M)**
Reserved on: 09.03.2021
Date of decision: 23.08.2021

Tejinder Singh Rana and another
.....Petitioners

versus

State of Haryana and others
....Respondents

CWP-21225-2020

Shri Krishan
.....Petitioner

versus

State of Haryana and others
....Respondents

CORAM: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Tribhuvan Dahiya, Advocate for the petitioners.

Ms. Shruti Jain Goyal, DAG, Haryana.

Ms. Kushaldeep K. Manchanda, Advocate for
Mr. Ankur Mittal, Advocate for respondents No.2 & 3.

(the aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court on account of restrictions due to COVID 19)

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GIRISH AGNIHOTRI, J.

This order shall dispose of two writ petitions i.e. **CWP-14445-2020** titled as **Tejinder Singh Rana and another vs. State of Haryana and others** and **CWP-21225-2020** titled as **Shri Krishan vs. State of Haryana and others.** For the sake of convenience, the facts are being referred to from CWP-14445-2020.

In CWP-14445-2020, petitioners-Tejinder Singh Rana and Narinder Singh Rana stated to be aged 54 & 62 years respectively, have jointly filed the present petition *inter alia* with a prayer for issuance of a writ in the nature of certiorari for quashing Clause 8(ii) of the Land Pooling Scheme (P/4) to the extent it limits the option for land owners to apply within sixty days of issuance of notification, and when period available for announcing the award is at least four months, being irrational and arbitrary, and also the letter dated 27.11.2019 (P/9) whereby petitioners' application for permission to apply under the Scheme, has been rejected.

Learned counsel for the petitioners, based on the pleadings in the petition, submits that the petitioners are brothers and each one of them owns 14 bighas and 11 biswas of agricultural land (total measuring 29 bighas 2 biswas-approximately 29,333 sq. yards), which is claimed as per *Jamabandi* for the year 2010-11. The land is situated within the Revenue Estate of Village Kundal, Tehsil Kharkhoda, District Sonipat. The agricultural unit in the name and style of M/s Surya Fluorescents, has been established over the land belonging to petitioner No.2.

It is the pleaded case of the petitioners that the respondents notified a 'Land Pooling Scheme' (hereinafter called as 'Scheme') on 14.08.2012, for development of industrial infrastructure and the said Scheme was notified in the Haryana Government Gazette. It is also the case of the petitioners that under the Scheme, the land owners would have a choice to opt for developed land measuring 1200 square yards for each one acre of land proposed to be acquired, in lieu of compensation package. The relevant extract of clause 2, is reproduced hereunder:-

> *"2. The Government has now decided to introduce a 'Land Pooling Scheme' whereby the landowners are given an option to become partners in the development process. The salient features of this Land Pooling Scheme are as follows:*
>
> *(i) After the Government has notified any land for acquisition for development of Industrial and supporting infrastructure under Section 4 of the Land Acquisition Act, the landowner(s) would have the choice to opt for developed land measuring 1200 sq. yards for each one acre of land proposed to be acquired in lieu of the 'compensation package and all other benefits admissible under the R & R Policy of the Government* <u>*or*</u> *accept the amount in lieu thereof for the entitled developed land at the allotment rates applicable at the time of first floatation of the estate;*
>
> *(ii) The landowner(s) would be eligible to participate in the Land Pooling Scheme only if a minimum of ½ acre or more of his/their land is acquired;*
>
> *(iii) The entitlement of developed land shall be proportion to the land acquired/pooled by the landowner(s) @ 1200 sq. yards per acre;*
>
> *(iv) The option for the Land Pooling Scheme will have to be exercised by the landowner(s) in writing in the prescribed form within a period of 4 months of the publication of Section 4 Notification;"*

Clause 3 & 8 of the Scheme are also relevant, which are reproduced hereunder:-

> *"3. The landowner shall also have the option to opt*

for the 'Land Pooling Scheme' in respect of part of his land being acquired and accept 'compensation along with the R & R Benefits' in respect of the balance land provided:

(i) The minimum land being acquired is one acre; and

(ii) The option for the 'Land Pooling Scheme' and the 'Compensation along with R & R Benefits' is split in the ratio of 50:50 of his land being acquired.

xxxx xxxx xxxx xxxx

8. Applicability:

(i) The Land Pooling Scheme shall be applicable in respect of acquisition proceedings initiated for the purposes of development and expansion of Industrial Model Townships, Industrial Estates/Parks pursuant to this Notification and shall take effect from the date of its Notification in the Official Gazette.

(ii) A one-time opportunity of exercise of option under this Scheme shall also be available to the landowners in respect of the current acquisition proceedings for aforesaid purposes where Notifications under Section 4 or Section 6 of the Act have been issued and the period available for announcement of the Award is four months or more. The landowners will be required to exercise their options in writing within a period of 60 days of the issue of this Notification."

By making specific reference to para 3 of the petition, learned counsel for the petitioners submits that it is the pleaded case of the petitioners that a notification under Section 4 of the Land Acquisition Act 1894, was issued on 01.04.2010, for acquiring approximately 3302 acres of land (including the land of the petitioners). On 04.04.2011, Notification under Section 6 of the Land Acquisition Act 1894, was issued and the award in the present case was announced on 01.04.2013. However, it is the case of the petitioners that the petitioners in 2013 itself, had filed CWP-5860-2013 which along with other writ petitions, was disposed of by this Court on 07.11.2016 (Annexure P-3). Thereafter, vide written representation/application dated 15.04.2017 (Annexure P-5), the petitioners made a request that the entire remaining land of petitioner No.1 (i.e. 12 bighas and 8 biswas) be put in with Scheme/Policy of the Department. Similar written request was made by petitioner No.2 with a plea that his entire remaining land (i.e 09 bighas & 17 biswas) be put in the Scheme of the Policy of the Department. Both the representations of even dated i.e. 15.04.2017, were submitted by both the petitioners to the Managing Director, HSIIDC. In these representations, reference was also made of their filing of the writ petition in the year 2013. It was also their specific case as submitted in the representation, that in the writ petition, they had prayed for release of their entire land including industrial unit, so established. They had also specifically pleaded that while disposing of their writ petition along with other writ petitions, vide a common judgment dated 07.11.2016, Division Bench of this Court had clearly directed as under:-

> *....“For the acquisition of their vacant agriculture land, the petitioners shall be treated at par with other agriculturists for the purpose of extending benefits in terms of* ***Om Parkash's*** *case.*
>
> *emphasis added”*

The relevant extract of the judgment as relied upon by the petitioners in their representation is reproduced hereunder:-

....“We are of the considered view that following the cited instances, it would be fair, just and reasonable to direct the respondents including HSIIDC to release the land of the petitioners in ***CWP Nos.14365 of 2012 [Om Parkash v. State of Haryana], 8549 of 2013 [Mahinder Singh v. FC & PS, Government of Haryana & Ors.], 11132 of 2013 [Bejal Singh & Ors. v. FC&PS, Government, Haryana & Ors.]*** *and* ***14294 of 2013 [Sunil Kumar & Ors. v. State of Haryana & Ors.]*** *equivalent to industrial plots not below the size of 30x60 square meters as depicted in the Revised Layout Plan or one commercial site out of “105 Meter Wide Commercial Pocket” duly earmarked in that plan. Where there are more than one owner [major co-sharers in the acquired land which is five acres or more], each one of them shall be considered for allotment of a separate plot but in their case the size of the industrial plot can be less than 30x60 square meter also. The industrial plot of 30x60 square meter or above or the commercial site, as the case may be, shall be allotted to the affected landowner only if his acquired land is one acre and above. The land-losers of less than one acre be given alternative site as per the R & R Policy dated 09th November 2010. The above mentioned plot[s] may be given any where as per the revised layout plan but the same shall be treated to have been carved out on the 'released land' of the affected landowner. In other words, the total area of the acquired land of such allottee shall be reduced to the extent of the size of the plot given to him and while the affected landowner shall not pay any allotment price [except the development charges], the compensation of his acquired land shall also stand reduced proportionately. The aforesaid exercise shall be undertaken by the*

> *Corporation and State Government within a period of four months and the possession of the developed plots of released land shall be given to the petitioners in these cases at the earliest and in the first opportunity. No allotment of developed sites shall be made unless the affected petitioners are firstly accommodated."*

Learned counsel for the petitioners submitted that the petitioners in view of the above, had contended in their written representation that due to pendency of their writ petition of 2013, they had not submitted their case for land Pooling, as they were hopeful that their writ petition would be allowed and their entire land would be released from acquisition. The petitioners through the representation therefore requested that their entire left out land may be put in the Scheme. To support this, they had also pointed out that they have not withdrawn the amount of compensation (which is lying with the State of Haryana/LAC). They had also offered that they are ready and willing to comply with all/any formalities that the Department requires them to fulfill.

The petitioners are stated to have further submitted reminders dated 30.09.2019 and 07.11.2019 (Annexures P-7 & P-8 respectively). It was only on 27.11.2019 that petitioner No.1 received a letter from HSIIDC (Annexure P-9) informing him that their representation for covering their entire land under the Scheme, cannot be accepted.

Learned counsel for the petitioners at this stage, further makes submissions to support the claim of the petitioners by *inter alia* contending that firstly the respondents have accepted the request of land owners to opt for the Scheme even after the allotted cut off date. Instances have been mentioned in para 10 & 11 of the writ petition. He secondly submits that there are many industrial plots (with emphasis he submits that all plots at IMT, Kharkhoda) are lying vacant/unallotted. Thirdly, learned counsel by making reference to para 13(v) of the petition, submits that the respondents themselves framed R & R Policy. Under the said policy, notice was issued on 04.07.2018 (Annexure P-11) inviting applications for plots (although the award was passed on 01.04.2013). Forthly, it is submitted that draw of lots for the same were held on 31.08.2020. Fifthly, he submits that in the R & R Policy, 163.58 acres of land for allotment under the R & R Pocket and land Pooling plots/Scheme was ear-marked. It is his specific case that out of the above 163 acres, only 48 acres was developed land and could be allotted under the Scheme. He relies on Annexure P-7 (in CWP-21225-2020), which is a report by the Director. It is the submission of learned counsel for the petitioners that allowing the petitioners' written request dated 15.04.2017 to put their entire remaining land (land not released from acquisition by the High Court) in the Scheme, would be in consonance with the true intention of the framers of the Scheme. He submits that the industrial Unit set up by the petitioners was exempted from acquisition (in other words, was ordered to be released from the acquisition by this High Court vide judgment dated 07.11.2016). The said decision dated 17.11.2016, passed by the High Court, was actually implemented by the respondents on 09.12.2019, when a mutation was entered in the name of petitioner No.1 (Annexure P-13). Therefore, it is the case of the petitioners that since the petitioners had applied immediately after the judgment of

2016 and well before 09.12.2019, their option/request for land Pooling, be treated as valid under Clause 3 of the Notification dated 14.08.2012. To elaborate, learned counsel submits that the land owner had an option as per Clause 3 to opt for the Scheme in respect of part of his land being acquired and accept compensation along with R & R benefits in respect of balance land. Notice dated 04.07.2018, issued in this regard inviting applications for industrial/residential/commercial plots is reproduced hereunder:-

> *Application Letter*
>
> *Subject: For applications as per R & R Policy for industrial, residential, commercial plots at IMT Kharkhoda in 2018.*
>
> *It is informed that in the year 2018 forms were issued to apply for industrial, residential or commercial plots at IMT Industrial Model Township, Kharkhoda. Regarding this, HSIIDC employees informed in our village 'Kundal' in the month of July that upto the end of September you could submit application for the aforesaid plots and for this munadi (proclamation) was also got effected in the village.*
>
> *Sd/-04.07.2018*
>
> *Nambardar*
> *Vill. Kundal*
> *Tehsil Kharkhoda*
> *Sonepat"*

Records of the case show that vide order dated 15.09.2020, notice of motion was issued for 29.09.2020 with notice regarding interim directions.

In response to the notices issued, respondents No.2 & 3 have jointly filed written statement through Shri Sunil Sharma, Chief Co-ordinator Industries-cum-HOD (Estate), HSIIDC. In the reply, it has been *inter alia* submitted that qua total land of the petitioners, which is 29 bighas & 2 biswas, Section 4 Notification under the Land Acquisition Act, 1894, was issued on 01.04.2010. The award in this regard was passed on 01.04.2013. In 2013, the petitioners filed CWP-5860-2013. The said writ petition was disposed of on 07.11.2016 with directions to release such land from acquisition where upon the industry was situated and for the vacant land, it was ordered to treat the petitioners at par with the land owners as in the case of ***Om Parkash and another vs. State of Haryana and others,*** in CWP No.14365 of 2012, wherein the following directions were given:-

> *"[41]. We are of the considered view that following the cited instances, it would be fair, just and reasonable to direct the respondents including HSIIDC to release the land of the petitioners in CWP Nos. 14365 of 2012 [Om Parkash Vs. State of Haryana], 8549 of 2013 [Mahinder Singh Vs. FC & PS, Government of Haryana & Ors.], 11132 of 2013 [Bejai Singh & Ors. Vs. FC&PS, Government, Haryana & Ors.] and 14294 of 2013 [Sunil Kumar & Ors. Vs. State of Haryana & Ors.] equivalent to industrial plots not below the size of 30x60 square meters as depicted in the Revised Layout Plan or one commercial site out of "105 Meter Wide Commercial Pocket" duly earmarked in that plan. Where there are more than one owner [major co-sharers in the acquired land which is five acres or more], each one of them shall be considered for allotment of a separate plot but in their case the size of the industrial plot can be less than 30x60 square meter also. The industrial plot of 30x60 square*

> *meter or above or the commercial site, as the case may be, shall be allotted to the affected landowner only if his acquired land is one acre and above. The land-losers of less than one acre be given alternative site as per the R&R Policy dated 09th November, 2010. The above mentioned plot[s] may be given any where as per the revised layout plan but the same shall be treated to have been carved out on the 'released land' of the affected landowner. In other words, the total area of the acquired land of such allottee shall be reduced to the extent of the size of the plot given to him and while the affected landowner shall not pay any allotment price [except the development charges], the compensation of his acquired land shall also stand reduced proportionately. The aforesaid exercise shall be undertaken by the Corporation and State Government within a period of four months and the possession of the developed plots of released land shall be given to the petitioners in these cases at the earliest and in the first opportunity. No allotment of developed sites shall be made unless the affected petitioners are firstly accommodated.*

In Para Nos.5 & 6 of the preliminary submissions of the written statement, it has been *inter alia* submitted that under the Scheme, the land owners are given a choice to opt for developed land measuring 1200 square yards for each acre of land proposed to be acquired in lieu of compensation package and all other benefits admissible under R & R Policy. Secondly, it has been submitted that to be eligible for the land pooling, the minimum of half acre or more land must have been acquired.

We have given careful consideration to the rival contentions raised by learned counsel for the parties and their respective pleadings.

For the facts noticed above and also for the observations recorded hereinafter, we are of the considered view that the petitioners are not entitled to the relief as prayed in the present writ petition. We do not find force in the first contention of learned counsel for the petitioners *inter alia* to the effect that the respondents have accepted the request of the land owners to opt for the Scheme given after the allotted cut off date. In Para 10 of the written statement, respondents No.2 & 3 have clarified that the application of the applicant (as alleged by the petitioners) was in fact dated 05.03.2013 and was received prior to the announcement of the award. Even otherwise, we find that merely by citing such instance, no lawful right accrues in favour of the petitioners. We also do not find merit in the second contention of the petitioners' counsel that there are many industrial plots which are lying vacant. We are of the view that no legal enforceable right flows in favour of the petitioners from the above contention. Therefore, the said contention is also rejected being devoid of merit. We have given thoughtful consideration to the third contention of learned counsel for the petitioners, wherein, reliance has been placed on the R & R Policy. In fact, we find force in the submission of learned counsel representing the respondents. It is the contention of the respondents that when the land owners opt for the Land Pooling Scheme instead of compensation and relief under R & R Policy, a separate award is announced qua such land owners, by the District Revenue Officer-cum-Land Acquisition Collector. In that event, such land owners are offered developed land instead of compensation and other benefits. It is with this objective that consent of the land owners to opt for the Land Pooling Scheme is taken, before announcement of the award. *emphasis added*

Learned counsel for the respondents has further contended that the acquisition of land and development of industrial township is based upon detailed planning and allocation of funds, which has to be ascertained before-hand as to how much land will be acquired under the Scheme and for how much land, the compensation and other reliefs will have to be given. It cannot be disputed that the purpose of the Scheme will be frustrated, if the land owners are allowed to opt for the same after the announcement of the award qua those who have opted for the Scheme, a separate award as per the Scheme is announced.

We also find that the fourth and fifth contention of learned counsel for the petitioners, also does not advance the case of the petitioners. The draw of lots which are stated to be held on 31.08.2020 were prior to the filing of the present writ petition. The area of land earmarked for R & R Pocket also does not give any lawful right to the petitioners. The object and intent of the Scheme and the R & R Policy when examined carefully, clearly shows that the object of both, are distinct and different. R & R Policy comes into picture after the acquisition proceedings are completed., whereas, the Scheme relates to pre-acquisition stage (before announcing of the award). Under the Scheme, the persons who opt for Scheme, are given developed land instead of compensation. In the present case, however the petitioners after the Scheme dated 14.08.2012, did not opt for the land pooling till the award was passed on 01.04.2013. Still further in 2013, they instead of opting for land pooling, had decided to challenge the acquisition and the award by way of filing writ petition in this Court.

Therefore, in view of the facts and observations as noticed above, we find that no infirmity much less illegalities can be found in Clause 8(ii) of the Scheme impugned herein. The petitioners do not have any legal enforceable right to challenge the Clause or to challenge the rejection of their request for land pooling, specially when they did not opt for the same in time. It cannot be disputed that the petitioners exercised their right to challenge the compulsory acquisition but having chosen to do it that, they cannot now claim it as a right to allow them to apply for Land Pooling Scheme under the Notification dated 14.08.2012 after many years of the date of the award dated 01.04.2013.

Before concluding, we also deem it appropriate to reproduce the factual position brought on record by the respondents in paragraph 15 of the preliminary objection of the written statement, which reads as under:-

> *....“15. That it is respectfully submitted that as far as the present acquisition proceedings are concerned i.e. for development of IMT Kharkhoda, about 200 acres of land was acquired under Land Pooling Scheme and as per the claims submitted by the land owners who had opted for land pooling scheme, about 126 land owners were found entitled for allotment of about 293 industrial plots of various sizes under the land pooling scheme. The details of the same are given as follows:-*

Category of Plots	***Number of Plots***
450 sq. mtrs	165
800 sq. mtrs.	58

Category of Plots	***Number of Plots***
1012 sq. mtrs.	63
1800 sq. mtrs.	6
4050 sq. mtrs.	1
Total	293

It is submitted that the draw of lots have already been held on 31.08.2020 and the plots under the said scheme have been allocated subject to the fulfillment of terms and conditions. It is submitted that the petitioner was never in interested in becoming a partner in the development process under the Land Pooling Scheme, and therefore, opted for release of his/its land from acquisition. It is suffice to mention that unlike the Resettlement and Rehabilitation Scheme, the Land Pooling Scheme offers the land owners an option either to opt for land pooling or compensation or part compensation and part land in lieu of the land acquired before the announcement of the award as on 01.04.2013. Once the petitioner has failed to opt under the scheme, no right sustains after the award is announced."

Resultantly, the present writ petition is dismissed.

No orders as to costs.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

23.08.2021
anju rani

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