

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16242-2021

Date of decision:07.09.2021

Usha Sharma and another

....Petitioners

V/s.

State of Haryana and others

....Respondents

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

Present: Mr. S.S.Salar, Advocate for the petitioners.

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

Ritu Bahri, J. (Oral).

The petitioners are seeking quashing of the notification dated 30.11.2006 (Annexure P-3) under Section 4 of Land Acquisition Act (hereinafter referred to as the 'Act') and the notification dated 28.11.2007 (Annexure P-8) issued under Section 6 of the Act and all consequential proceedings keeping in view the Supreme Court judgment dated 07.08.2013 passed in the case of *Gian Chand and others V/s. State of Haryana and others* (Annexure P-9).

The State of Haryana had issued notification dated 30.11.2006 under Section 4 of the Act (Annexure P-3). Objections were given by the petitioner No.1 and her husband Sant Kumar Sharma on 21.12.2006 (Annexures P-4 and P-5). Thereafter, notification under Section 6 of the Act was issued on 28.11.2007 (Annexure P-8). Award was passed on 26.11.2009. 56 petitioners challenged these notifications by way of filing CWP-18278-2008. This writ petition was dismissed. Thereafter, these petitioners filed SLP Nos. 12159-12160 of 2011. These SLPs were

converted into Civil Appeal Nos. 6668-6669 of 2013 and after receiving objections under Section 5A(1) of the Act, objectors were given notices for being heard from 25.04.2007 to 27.04.2007. The High Court, while dismissing the writ petition, had further observed that State will do the construction after getting environmental assessment report from the competent authority. These appeals were allowed on 07.08.2013 (Annexure P-9) and the acquisition of the land of the appellants was quashed. It was further observed that this order would not preclude the State Government from again acquiring the land of the appellants.

Learned counsel for the petitioners states that as per the judgment passed by the Supreme Court on 07.08.2013 (Annexure P-9), the land of the petitioners should also be released from acquisition proceedings.

The short question for consideration would be that after a gap of 8 years, can the petitioners whose land stood acquired wayback in the year 2009 after passing of the award on 26.11.2009, seek quashing of the notifications as per the Supreme Court judgment dated 07.08.2013 (Annexure P-9)?

This Court had an occasion to examine a similar question with respect to setting aside of the notifications issued under Sections 4 and 6 of the Act on 17.04.2002 and 10.04.2003 as well as award dated 25.06.2004. The petitioners in a case titled as ***Rajesh Malik V/s. State of Haryana and others, CWP-19246-2017***, decided on 30.07.2021 were seeking quashing of the above said notifications in view of the judgment passed in CWP-2308-2004 dated 21.06.2010 and SLP(C) Nos. 10857-10878 of 2011 filed by the State which was dismissed on 07.05.2012. This Court held that petitioners could not seek parity for quashing of the land acquisition proceedings

keeping in view the Supreme Court judgment passed in *V. Chandrasekaran V/s. Administrative Officer*, 2012 (12) SCC 133. The Supreme Court in the above said case had observed that under Section 48 of the Act, the State had discretion to release the land acquired, of which possession had not been taken. The land owners cannot take benefit of release of land qua other land owners who had approached the Court well in time. Moreover, as per the judgment passed in *Indore Development Authority vs. Manoharlal and others*, AIR 2020 SC 1496 that once possession of the land had been taken, the land will vest in the State free from all encumbrances.

In the present case, the judgment dated 07.08.2013 passed by the Supreme Court in *Gian Chand and others V/s. State of Haryana and others* (Annexure P-9) was in favour of the land owners but the petitioners had filed the present writ petition on 13.08.2021 i.e. after a gap of 8 years. Hence, the petitioners cannot claim any parity for release of their land keeping in view above said judgment.

Writ petition is dismissed accordingly.

(RITU BAHRI)
JUDGE

07.09.2021
Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No