

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CWP-16346-2013(O&M) Judgement reserved on : 17.03.2021
Date of Decision : 09.04.2021

Balbir Kumar & others --Petitioners

Versus

State of Haryana & others --Respondents

2. CWP-6729-2013(O&M)

Niranjan Singh & another --Petitioners

Versus

State of Haryana & others --Respondents

3. CWP-10452-2014(O&M)

Anita Kumari Sharma --Petitioner

Versus

State of Haryana & others --Respondents

**CORAM:- HON'BLE MR.JUSTICE AJAY TEWARI.
HON'BLE MR. JUSTICE RAJESH BHARDWAJ.**

Present:- Mr. Amit Jain & Mr. S.S. Dinarpur, Advocates
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana.

RAJESH BHARDWAJ.J

All the aforementioned three petitions have been filed by the petitioners under Article 226/227 of the Constitution of India praying for issuance of a Writ of Certiorari/Mandamus for quashing, the notification dated 21.4.1987 (Annexure P-1) and 20.4.1988 (Annexure P-2) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (herein after to be referred to as the Act) respectively and the letter dated 2.5.2013 along with letter dated 29.04.2013 rejecting the claim of the petitioners and further declaring the action of the respondent authorities in not releasing the land of

the petitioners from acquisition alleging to be illegal, arbitrary, malafide and violative of the provisions of the Act and Article 14 of the Constitution of India. Primarily, the main issue involved in all these three petitions is the same except some minor factual differences in the measurement and location of the area of the land acquired of the respective petitioners. However, for brevity the facts have been taken from CWP-16346-2013 (Balbir Kumar and others Vs. State of Haryana and others).

The factual matrix of the case is that the State of Haryana issued the notification dated 21.4.1987 (Annexure P-1) under Section 4 of the Act intending to acquire the land measuring 35.76 acres for the development and utilization of land as residential and commercial Sector 11, Kurukshetra and the same followed with the notification under Section 6 of the Act dated 20.4.1988 (Annexure P-2). The objections were invited from all the concerned land owners and after carrying out the requisite statutory action, the award was pronounced by the Land Acquisition Collector, Urban Estate, Panchkula on 12.4.1990 for the land measuring 34.61 acres only. The Land Acquisition Collector assessed the award @ Rs.1,08,000/- per acre for whole of the land under acquisition in village Ratgal and Dara Kalan. Upon this solatium @ 30% and additional compensation @ 12% per annum from the date of notification under Section 4 to the date of award was granted. The petitioners appended the Akshijra plan as Annexure P-4 along with the petition. It has been further contended that thereafter a further notification was issued by the State of Haryana under Section 4 of the Act dated 11.2.2002 for acquiring the land measuring 126.30 acres for residential, commercial and institutional purposes in Section 6 and 11, Kurukshetra. It has been further mentioned that before the

issuance of notification under Section 6 of the Act the land measuring 81.91 acres belonging to 43 land holders was released, details of which have been furnished in para 4 of the petition. The area of the total land of these 43 land holders amounts to 71 kanals 06 marlas i.e. 8.9 acres, in village Ratgal, whereas in village Dara Kalan the land released was 09.04 acres. The petitioners have further provided details of the land released between the period of notification under Section 6 of the Act and the issuance of award which pertain to 7 different land holders and the area of this land amounts to 13 kanals 08 marlas i.e. 01.67 acres. Further the petitioners have given details of 31 different land holders whose land was released from acquisition in view of the orders passed by this High Court in various writ petitions, the area of which amounts to 326 kanals 08 marlas i.e. 40.80 acres. All these details have been appended along with the petition as Annexures P-6 to P-8.

Petitioners have further contended that they had challenged the aforesaid acquisition by filing CWP-371-2008 which was dismissed as withdrawn vide order dated 11.1.2008 by granting liberty to the petitioners to file a representation before the authorities concerned for redressal of their grievance. It has been contended that as a result of the same the petitioners filed a representation dated 22.1.2008 and thereafter a legal notice dated 13.1.2009 was issued to the respondent State praying for release of their acquired land on parity with the similarly situated persons whose land was released by the State. As the prayer of the petitioners did not find favour with the respondent State, they were left with no other option than to approach this High Court by filing CWP-1830-2009. The same was allowed to be withdrawn on the ground that as the representation of the petitioners

was already pending, hence the same be pursued by the petitioners. It has been further contended that the Senior Town Planner, who was dealing with the case of the petitioners had made a specific mention dated 5.7.2010 wherein he had emphasized that in view of the release of most of the land from acquisition, the sector cannot be developed, which fortifies the stand of the petitioners and the same has been placed on record as Annexure P-18 with the petition. The petitioners have prayed that the action of the respondent State in not releasing the land of the petitioners is not at all distinguishable from the rest of the land holders whose land already stood released and hence rejection of their claim by the State, is totally arbitrary, discriminatory and unsustainable in the eyes of law. The petitioners have appended the relevant records and the various orders of this High Court as also by the Hon'ble Apex Court passed at various stages, to strengthen their case. Not only this the petitioners have relied upon the view taken by the Hon'ble Apex Court vide its order dated 27.3.2015 in ***S.L.P. (Civil) No.31611-31613-2013*** titled as ***Vipin Jindal Vs. State of Haryana and others***. The extract of the operative part of the same is as under:-

“The above stated facts would go to show a somewhat inconsistent stand on the part of the State Government. If similarly situated persons had been granted relief, the appellant ought to be granted similar relief. In the aforesaid facts, we direct the appellant to file a representation before the Appropriate Authority of the State Government. Once the said representation is filed, the concerned authority of the State Government will decide the matter in the light of the earlier orders, passed by it within a period of four weeks from the receipt of a copy of this order.

The appeals are disposed of in the above terms.”

These orders of the Hon'ble Apex Court are annexed with the petition as Annexures P-28.

Thus, the petitioners have reiterated that by no stretch of imagination their case is different from the case of the rest of the land holders and hence their acquired land also deserved to be released from the acquisition.

Petitioners have further tried to strengthen their case in view of the various orders of this High Court and that of the Hon'ble Apex Court, asserting that their case is squarely covered for grant of relief, as prayed for.

CWP-6729-2013

Petitioners in this petition also have challenged the same acquisition and prayed for the release of their acquired land. Besides this, the petitioners have prayed for quashing the order dated dated 15.6.2012 (Annexure P-17). They have mentioned that they filed CWP-13376-2006 along with certain other land owners. Here also the petitioners gave details of about 31 land owners, whose land stood released from acquisition. The petitioners have mentioned that their land comprised in Khasra No.16/3 in village Ratgal and vide order dated 12.11.2007 the petition filed by the petitioners i.e. CWP-15222-2006 was disposed of in view of order dated 21.9.2007. This Court disposed of the petition by granting liberty to the petitioners to make representation to the authorities concerned. Petitioners have mentioned that inadvertently the Khasra number was mentioned in writ petition as 16//3 instead of Khasra No.16//13 and hence the civil miscellaneous application was filed seeking correction of the Khasra number as 16//13 instead of Khasra No.16//3. This application being CM

No.11969 of 2009 in CWP No.13376 of 2006 was disposed of vide order dated 7.8.2009 by observing that it is open for the applicant-petitioners to make a representation to the Govt. by mentioning the correct Khasra number with the prayer that the same be considered in accordance with law. This order has been annexed with the petition as Annexure P-4. Besides this, rest of the contentions are similar to the earlier petition.

CWP-10452-2014

The petitioner Anita Kumari Sharma has filed this petition primarily challenging the same notification as in the aforementioned two petitions. Factually, the petitioner has mentioned that her land measuring 19 kanal 9 marla comprised in Rect. No.3, Khasra No.6(3-17), 7(7-18), 14/3 (2-0), 15(5-14) situated within the revenue estate of village Darra Kalan, Tehsil Thanesar, District Kurukshetra was owned and possessed by the predecessor-in-interest and the same was proposed to be acquired vide notification under the same acquisition. Petitioner prayed that she is N.R.I and her father died suffering from cancer. After the death of her father she inherited the land in question and when she came to know that HUDA has got sanctioned the mutation in respect of area in question on 27.6.2013, she submitted a representation seeking release of her land as the very purpose of acquisition of the same stood abandoned in view of release of the rest of the major chunk of acquired land. A copy of the representation dated 21.10.2013 has been annexed with the petition as Annexure P-13. Rest of the grounds of challenge are virtually the same as in rest of the petitions.

After issuance of notice, the respondents appeared in all cases and filed their respective written statements. The respondent State has justified the acquisition under challenge and refuted the claim of the

petitioners in releasing their acquired land primarily on the ground of delay and laches. It has been categorically mentioned in their written statement that the award in the acquisition was announced on 12.4.1990 but the petitioners have approached the court by way of filing the present writ petitions after more than 26 years of the same. It has been further mentioned that compensation has been paid to the petitioners and therefore the land vest in the State and thus all the petitioners are liable to be disbursed with costs.

We have heard counsel for the parties at length and perused the complete records made available.

Learned counsel for the petitioners Sh. Amit Jain & Sh. S.S. Dinarpur have vehemently contended that in view of the clinching documents produced on record there is no gainsaying that the State, though, acquired the land but thereafter has released the major chunk of the same in pursuance to the various representations made and the orders passed by the courts at various stages. The land was acquired for the residential, commercial and institutional purposes in Section 6 and 11, Kurukshetra but maximum area of the acquired land already stood released. Learned counsel appearing for the petitioners have taken us through all the orders passed by this High Court as well as the Hon'ble Apex Court since the date of acquisition wherein they have substantiated their arguments. Learned counsel have also drawn our attention to the orders passed by the Hon'ble Apex Court in ***S.L.P. (Civil) No.31611-31613-2013*** titled as ***Vipin Jindal Vs. State of Haryana and others***, which is annexed as Annexure P-28 and the compliance of the same by the State which is annexed as Annexure P-29. Learned counsel for the petitioners have vehemently contended that the

case of the petitioners by no stretch of imagination can be stated to be different from others and thus the action of the State in declining the well deserved claim of the petitioners is highly discriminatory being violative of Article 14 of the Constitution of India and thus deserves to be set aside. They have further contended that the purpose for which the land was acquired by the State is totally defeated by releasing the major chunk of the land and even if the miniscule part of the land that is owned by the petitioners, is kept by the State, the same would be of no use for developing the aforementioned two sectors i.e. sectors 6 and 11, as envisaged by the State.

Mr. Ankur Mittal learned Addl. A.G., Haryana has vehemently opposed the various contentions raised by the petitioners. He has asserted that the petitioners have already accepted the compensation for acquisition of their land pursuant to the award, which was announced on 12.4.1990, the possession of the land was taken by the State and thus the same vests in the State and hence the petitioners have no cause of action praying for the release of the land acquired. Mr. Mittal has very candidly acknowledged the developments that took place in the case on factual and legal aspects after the acquisition of the land till date. Besides the written statement, he has placed on record a detailed lay out plan of the acquired pocket in Sectors 6 and 11, Kurukshetra which contains every detail in a crystal clear manner. Mr. Mittal has drawn our attention to the land acquired and released which is shown in different colours. Besides this, he has drawn our attention to the details of the calculations of the land acquired and released under the title “LEGEND” contained in the lay out plan. Tabulated form of the lay out plan is being reproduced hereunder:-

LEGEND

Sr. No.	Acquisition details of land acquired under L.A Act, 1894	Area in acres
1.	Section-4 21.4.1987	46.49
2.	Land excluded u/s 5 A	10.83
3.	Section-6 20.4.1988	35.66
4.	Land released between u/s 6 and award	1.05
5.	Award 12.04.1990	34.61
6.	Land released after award	26.83
7.	Notification quashed (up to Hon'ble Supreme Court level)	NA
8.	Balance Land Area (5-(6+7))	7.78
9.	CWPs pending u/s 24(2)	4.056
10.	CWPs pending other than u/s 24(2)	1.125
11.	CWPs dismissed/acquisition upheld	NA
12.	CWPs allowed/acquisition quashed by Hon'ble High Court where SLP filed or yet to be filed.	0.50

DETAILS OF CWPs

Sr. No.	CWP No. & Title	U/s 24(2) other than Section 24(2)
1.	16346/2013 & Balbir Vs. State of Haryana	U/s 24(2)
2.	6729/2013 & Niranjana Singh Vs. State of Haryana	U/s 24(2)
3.	10452/2014 & Anita Kumari Vs. State of Haryana	U/s 24(2)
4.	3177/2016 & Somnath & others Vs. State of Haryana	Other than section 24(2)

By the able assistance of the counsel for the parties, it stands established that the major chunk of the land belonging to the similarly situated land owners already stood released and thus we find ourselves totally in agreement with the arguments advanced by counsel for the petitioners that their case is not different from those land owners whose land already stood released. We are also agreed with their contention that the purpose for which the land was acquired is already vitiated as the proposed plan for which the land was acquired cannot be fulfilled by retaining the land of the petitioners. Hence, denying to the prayer of the petitioners in

not releasing their land would be a travesty of justice. Thus, the petitioners have succeeded in establishing that the action of the State in declining their prayer for release of their respective acquired land is violative of Article 14 of the Constitution of India and thus, liable to be set aside. Hence all the aforementioned three petitions are allowed accordingly.

Petitions allowed.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

09.04.2021

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