

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.2928 of 2019 (O&M)
Date of decision: 20.04.2022

Surender Yadav and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Jaivir Yadav, Senior Advocate,
with Mr. Nitish Sharma, Advocate,
for the petitioners.

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

Mr. Lokesh Sinhal, Advocate,
for respondent Nos. 5 and 6.

Ritu Bahri, J. (Oral)

Petitioners are seeking quashing of notifications dated 24.08.2000 and 22.08.2001 (Annexures P-1 and P-2) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short '1894 Act'), Award dated 21.07.2003 (Annexure P-3) and order dated 21.03.2016/16.05.2016 (Annexure P-7) passed by the Chairperson-cum-Zonal Administrator, HUDA-cum-Additional Director, Urban Estate, Gurgaon. Further prayer has been made to release the land of the petitioners under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Petitioners are owners in possession of the land comprised in

Khasra No.1157 (0-14-0) measuring 14 Biswa, as detailed in para no.4 of

the petition. Red Line (*lal dora*) specifying the village *abadi* was demarcated around 100 years back. As per petitioners, their adjoining land has been released from the purview of the land acquisition proceedings and the same has been utilized and developed by private builders as licensees of the respondent-State. The petitioners intent to utilize the said land by taking benefit of the same themselves and their extended family after paying the license fees and development and other charges. Against the notifications dated 24.08.2000 and 22.08.2001 (Annexures P-1 and P-2) and award dated 21.07.2003 (Annexure P-3), predecessors-in-interest of the petitioners filed CWP No.8460 of 2006, which was disposed of vide order dated 26.05.2006 (Annexure P-4) by giving direction to the respondents to constitute a High Powered Committee to examine and look into the representation of the petitioners and till then, the petitioners were not to be dispossessed from the land. After passing of the above said order, predecessor-in-interest of the petitioners made an application dated 21.11.2006 to the Director, Town & Country Planning, Haryana, for grant of license for setting up of a Cyber Park at village Wazirabad, Sector 47, Gurugram, along with license fee and scrutiny fee. However, the said application was rejected by the respondents vide order dated 11.08.2011. Thereafter, Sh. Jagmal Singh, predecessor-in-interest of the petitioners along with one Chet Ram filed CWP No.8242 of 2012, which was dismissed by this Court vide order dated 04.05.2012. Against the said judgment, two separate Special Leave Petitions i.e. SLP (Civil) No.4493 of 2014 and SLP (Civil) No.8288 of 2015 were filed. SLP (Civil) No.4493 of 2014 was dismissed by Hon'ble the Supreme Court vide order dated 30.06.2014. Thereafter, SLP (Civil) No.8288 of 2015, filed by Jagmal Singh was withdrawn vide order dated 11.05.2015 (Annexure P-5).

Physical possession of the land was with the petitioners. After passing of the Award dated 21.07.2003 (Annexure P-3), predecessors-in-interest of the petitioners or the petitioners themselves have not received full and final compensation till date.

Thereafter, Sh. Jagmal Singh filed another petition i.e. CWP No.11301 of 2015 seeking quashing of the notifications under Sections 4 and 6 of the 1894 Act and the award dated 21.07.2003 for release of the petitioners' land, as per the provisions of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'). The said petition was disposed of by this Court vide order dated 28.05.2015 (Annexure P-6) by giving liberty to the petitioner(s) to make a representation to the respondents and till the decision of representation, *status quo* was ordered to be maintained by the parties. In compliance of the order dated 28.05.2015 (Annexure P-6), a High Powered Committee was constituted by respondent No.6, but the said committee did not recommend release of the land of petitioners and vide order dated 21.03.2016, endorsed on 16.05.2016 (Annexure P-7), observed that provisions of Section 24 (2) of 2013 Act were not attracted. In this backdrop, the present petition has been filed by the petitioners.

Upon notice, written statement dated 15.04.2022 on behalf of respondent Nos. 1 to 4 has been filed, wherein reference has been made to the Rapat No.569 dated 21.07.2003, whereby possession of the land in question was taken and handed over to HUDA (now HSVP), i.e. the beneficiary department. Further reference has been made to a judgment passed in **Indore Development Authority vs. Manoharlal and others**, SLP

(C) No.9036-9038 of 2016, wherein Hon'ble the Supreme Court has held that possession taken through mode of Panchnama and Rapat Roznamcha is a valid possession and once the possession is taken, the land vests absolutely in the State and it cannot be given back. The layout plan has been placed on record as Annexure R-1 and it is stated that the acquisition has been made for the purpose of residential, commercial and institutional Sector 57, Gurugram. The development work has been completed. As per development plan (Annexure R-1), land of the petitioners affects the following site:-

1. 19 plots of 1 Kanal category.
2. 127 plots of 10 Marla category.
3. 10 meter wide roads (05)
4. 12 meter wide internal roads (02).
5. park site.

Mr. Ankur Mittal, Addl. A.G., Haryana, has argued that as per reply filed, total compensation of the awarded land, was Rs.73,06,74,448.60/-, out of which, amount of Rs.52,15,17,447.60/- has been disbursed to the land owners and rest of the amount of Rs.20,91,57,001/- is lying deposited in the account of CCF HSVP, Panchkula. The petitioners have not received the compensation intentionally.

Heard, learned counsel for the parties.

As per the judgment passed in **Indore Development Authority's** case (supra), benefit of Section 24 (2) of 2013 Act cannot be extended once the Rapat Roznamcha is entered and possession is taken over by the State. Benefit of this section can only be made applicable, in case neither the possession is taken nor compensation is paid to the landowners.

Since, in the present case, possession has already been taken over by the State, petitioners cannot seek release of land under Section 24 (2) of 2013 Act. With regard to the acquisition proceedings of Sector 57, Gurugram, this Court in **Kishan Chand and others vs. State of Haryana and others**, CWP-3071-2022, was considering a case, where claim of the petitioners (therein) for release of land under Section 101-A of 2013 Act had been rejected vide order dated 12.11.2021 by the Principal Secretary, Town and Country Planning-cum-Principal Secretary, Urban Estate Department. In that case, petitioners had made a representation for release of land under Section 24 (2) of 2013 Act and the Chairman, Zonal Committee-cum-Zonal Administrator, HSVP, Gurugram, rejected their case passing a speaking order dated 24.07.2017. The said order was challenged by the petitioners by filing CWP No.20037 of 2017, which was decided in favour of HSVP. Thereafter, in SLP (C) No.14980-2020, Hon'ble the Supreme Court had given direction to decide the representation of the applicants. It was further observed that the land in question was essential for intended purpose of acquisition and no case for release of land under Section 101-A of 2013 Act, was made out. Ultimately, the writ petition was dismissed by referring to the judgment passed in **Ram Swaroop (Dead) through LRs & Anr. vs. State of Haryana & Ors.**, SLP (Civil) No.16421 of 2021 (decided on 15.11.2021), wherein it was observed that if, the land was to be utilized for allotment of plots, no case for release of land under Section 101-A of 2013 Act was made out. In **Ram Swaroop's** case (supra), Hon'ble the Supreme Court observed as under:-

“9. This Court in **Raghubir Singh** has held that it is the bounden duty of the State to examine the relevant facts and form suitable opinion as may be advised regarding the lands having become unviable or non-essential or

not. The opinion of the State Government, whether the land is unviable or non-essential cannot be disputed by landowner at the drop of the hat. The principles of judicial review of an administrative action as laid down by this Court in ***Tata Cellular vs. Union of India***, (1994) 6 SCC 651 are illegality i.e. decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it; irrationality namely Wednesbury unreasonableness; and procedural impropriety. This Court held as under:

“94. The principles deducible from the above are:

- (1)The modern trend points to judicial restraint in administrative action.
 - (2)The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.
 - (3)The Court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.
 - (4)The terms of the *invitation to tender* cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.
 - (5)The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.
 - (6)Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.
- Bases on these principles we will examine the facts of this case since they commend to us as the correct principles.

10. xx xx xx

11. The claim of the appellants for release of land on account of Section 24 (2) had been rejected by the State Government on 12.09.2016. The writ petition against the said order stands dismissed on 12.10.2020. Thus, the present appeal is merely an attempt to continue

to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development and utilization of residential, commercial and institutional area, Sector-51, Gurugaon (now Gurugram). This Court in **Raghubir Singh** has held that Section 101-A does not give a vested right to the landowner to seek denotification or even that upon denotification, the land in question must return to the erstwhile owners only. The State Government is at liberty to pass such order other than release of land in favour of the landowners.”

In the facts of the present case, the predecessors-in-interest of the petitioners had challenged the acquisition proceedings by filing CWP No.8460 of 2006, which was disposed of vide order dated 26.05.2006 (Annexure P-4) by giving a direction to the respondents to constitute a High Powered Committee, which would examine and take a decision on the representation of the petitioners. Subsequently, the predecessors-in-interest of the petitioners namely Sh. Jagmal Singh filed CWP No.11301 of 2015 challenging the acquisition proceedings as per Section 24 (2) of 2013 Act. The said petition was disposed of by this Court vide order dated 28.05.2015 (Annexure P-6) by giving liberty to the petitioner to file a detailed and comprehensive representation by raising all the pleas regarding release of land. Pursuant to the said order, a speaking order dated 21.03.2016, endorsed on 16.05.2016 (Annexure P-7) has been rightly passed by the Chairperson-cum-Zonal Administrator, HUDA, whereby the claim of the petitioners for release of land under Section 24 (2) of 2013 Act has been rejected, as the land acquired is required for the development of residential, commercial and institutional Sector, 57, Gurugram. Moreover, out of the total compensation of Rs.73,06,74,448.60/-, amount of Rs.52,15,17,447.60/- has been disbursed to the land owners and rest of the amount of Rs.20,91,57,001/- is lying deposited in the account of CCF HSVP,

Panchkula. The planning has been done as per the layout plan.

Keeping in view the reply filed by respondent Nos. 1 to 4 and the ratio of the judgments passed in **Indore Development Authority** and **Ram Swaroop's** case (supra), since possession in the present case has already been taken over by the State and Rapat Roznamcha, in this regard, has been entered, no ground for quashing of the acquisition proceedings, as prayed for, is made out.

As far as plea of release of land is concerned, land of the petitioners falls in Sector 57, Gurugram. This Court in **Kishan Chand's** case (supra) had dismissed the petition by referring the judgment passed in **Ram Swaroop's** case (supra), wherein it was observed that the land in Sector 57, Gurugram, was to be utilized for allotment of plots, hence, no case for release of land under Section 101-A of 2013 Act was made out and land owners could not claim release of land.

In view of the above discussion, finding no merits, the present petition is dismissed.

(RITU BAHRI)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

20.04.2022
ajp

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