

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-11367-2021 (O&M)

Date of decision: 09.05.2022

Dharam Pal and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

PRESENT: Mr. Kartar Singh Malik, Advocate for the petitioners.

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

Mr. Jitender Nara, Advocate
for the applicant (in CM-13874-2021).

RITU BAHRI, J. (ORAL)

In the present case, the petitioners are seeking release of the land as per policy dated 14.09.2018 (Annexure P-9) and as per their representation dated 13.03.2018 (Annexure P-8).

On notice of this petition, reply has been filed by way of affidavit of Additional Chief Secretary to Government of Haryana, Irrigation and W.R. Department dated 04.04.2022. In this reply, it has been stated that after the issuance of notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short-'the Act') on 07.06.1979 and 20.06.1979 (Annexures P-2 and P-3, respectively) whereby 2.19 acres of

land was sought to be acquired, Award was announced under Section 9 of the Act by the Land Acquisition Collector, Flood Control and Drainage Works, Karnal, on 24.02.1981 (Annexure P-4) and 2.33 acres of land was acquired instead of 2.19 acres. As per the Award, mutation was sanctioned by Tehsildar Rohtak, vide Mutation No. 5832 dated 18.03.1983. Out of the total 83 beneficiaries, 72 beneficiaries have received the compensation and 11 beneficiaries did not claim the compensation amount, despite it was available. Out of total 41 petitioners, 34 petitioners have received the compensation amount and 7 petitioners did not claim the compensation amount. Out of the total land in question, beneficiaries of only 3.38 kanals did not claim the compensation amount. After accepting the compensation, some of the petitioners have also filed reference under Section 18 of the Act and those references have been dismissed in default vide order dated 30.10.1985 in LAC NO. 22/4 dated 13.03.1985. After the expiry of four decades now, the petitioners cannot be permitted to challenge the acquisition proceedings on any ground whatsoever.

With respect to the claim under the Policy dated 14.09.2018 (Annexure P-9), in paragraph 9 of the reply it has been stated that sewage system has been constructed/in progress at the site for disposal of rain water and number of residents of Friends Colony a regularized colony had submitted their representation regarding transfer of a part of acquired land of Tilyar link Drain to Municipal Corporation, Rohtak. In this regard, a meeting of the House of Municipal Corporation, Rohtak, was

held on 02.02.2022, to discuss the issue regarding changing the utilization purpose of the land in question to another productive public purpose and after a deep discussion in the meeting of House of MCR, it has been decided to construct a RCC box type drain over the land in question for disposal of sewage/storm water so that the same will also be used as path for local inhabitants as per minutes of the meeting issued by the MCR vide letter No. MCR/Mayor/2022/738-41 dated 03.02.2022.

As per the above said decision taken to transfer this land to the Municipal Corporation, for the public purpose by constructing a drain, no case is made out for the release of land as per policy dated 14.09.2018 (Annexure P-9) and this aspect has already been considered by Hon'ble the Supreme Court, while deciding an SLP(Civil) No. 16421 of 2021, 'Ram Swaroop (Dead) through LRs and Another Vs. State of Haryana and others', decided on 15.11.2021. The case of Ram Swaroop had been considered by the appropriate authority for the release of land under Section 101A and the same was rejected by observing that if, there is any other public purpose which is viable, the land can be utilized for any other purpose for public utility and no land owner has vested right to assert that the land acquired has become unviable or non-essential, merely, because the land owner is being in possession by virtue of interim order passed by this Court.

In the present case, the land has now been transferred in the name of Municipal Corporation, Rohtak, for extension of drainage, therefore, keeping view the judgment of Hon'ble Supreme Court in Ram

Swaroop's case (supra), the case of the petitioners even referring for a decision under the policy is not made out.

The instant writ petition stands dismissed.

Since, the main petition has been dismissed, therefore, all the miscellaneous applications pending, if any, also stands dismissed and no separate order is required to be passed in the same.

(RITU BAHRI)
JUDGE

May 09, 2022
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(ASHOK KUMAR VERMA)
JUDGE

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