

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11075-2022

Date of decision: 30.09.2022

Chhatarpal

....Petitioner

Vs.

State of Haryana and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: None for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

Ritu Bahri, J.

The petitioner is seeking direction to the respondents to de-notify his land under Section 101-A inserted vide Haryana Amendment Act, 2017 in Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which was acquired vide notifications dated 02.08.1989 and 01.08.1990 (Annexures P-2 and P-3) under Sections 4 and 6 respectively of the Land Acquisition Act, 1894.

The brief facts of the case are that the petitioner alongwith co-owner are in physical possession of the land measuring about 1 kanal 2 marlas comprising in khasra No. 25/20/2 situated within the revenue estate of village Mewla, Mehrazpur, District Faridabad. The land of the petitioner has been acquired vide notifications dated 02.08.1989 and 01.08.1990 (Annexures P-2 and P-3) under Sections 4 and 6 respectively of the Land Acquisition Act, 1894.

On 23.05.2022, when this case was taken up, learned counsel for the State was asked to get clarification as to how the land of the

petitioner as reflected in the site plan (Annexure P-7) can now be utilized as the surrounding area has already been released.

On 30.05.2022, learned counsel for the State, on instructions, informed that as per revenue record details, the land in question falls in khasra No. 25/20/2 in the revenue estate of village Mewla, Mehrazpur, District Faridabad. The said khasra No. falls under the residential Sector 45, Faridabad and are planned partly under 18 meter wide road and partly in belt earmarked as commercial show rooms and corporate offices.

A status report dated 02.08.2022 by the Land Acquisition Officer, Urban Estates, Faridabad on behalf of respondents No. 1 to 5 has been filed. As per the said report, the land of the petitioner affects the site 18 meter wide internal road and commercial belt reserved for commercial show rooms/corporate offices as per the development plan. A copy of the report dated 30.06.2022 by the District Town Planner, Faridabad is also placed on record as Annexure R-1 wherein it is stated that the land in question abuts the license granted Group Housing Colony bearing license no. 52 of 2019 and as per the approved zoning plan of the same bearing drawing No. DTCP6906 dated 07.03.2019 the provisioning of 18.0 meter wide road has been ensured in front of the said colony by keeping the proportionate 9.0 meter stretch from the centre of the 18.0 meter wide road towards the license granted colony. The area earmarked as commercial/corporate offices in the HSVP acquired land are also planned beyond 18.0 meter wide road. The District Town Planner, Faridabad vide email dated 21.07.2022 (Annexure R-2) further informed that as per the approved zoning plan of the license granted colony abutting the impugned land, an area admeasuring 2249.02 sq.mtrs (4K-9M) has been reserved for

18.0 meter Sector road which is to be transferred free of cost to the Govt. As per site, the licensee has done the fencing of license granted land after leaving this area i.e. 2249.02 sq.mtrs (4K-9M). A copy of zoning plan of affordable group housing colony for an area measuring 6.081 acres license No.52 of 2019 dated 07.03.2019 in village Mewla Maharajpur, Sector 45, Faridabad being developed by Sh. Vishnu Kumar and others in collaboration with Jotindra Steel and Tubes Ltd. is also placed on record as Annexure R-3. As per this zoning plan (Annexure R-3), 18.0 meter wide road has been ensured in front of the group housing colony and the area earmarked as commercial/corporation offices are also planned beyond 18.0 meter wide road.

No replication to the status report has been filed by learned counsel for the petitioner.

The petitioner is seeking benefit under Section 101-A of the Act, 2013. As per the above-referred status report, it is clarified that the land in question has been acquired for public purpose i.e. construction of 18 meter wide internal road and commercial belt reserved for commercial show rooms/corporate offices as per the development plan of residential Sector 45, Faridabad. The petitioner cannot seek de-notification of the land under Section 101-A of the Act, 2013 as a matter of right as the land in question has vested in the State and stands already utilized.

At this stage, reference has been made to a recent judgment of the Hon'ble Supreme Court of India in ***Ram Swaroop (dead) through LRs and another vs. State of Haryana and others, arising out of SLP (Civil) No. 16421-2021*** dated 15.11.2021, wherein it has been categorically held that Section 101-A of the Act, 2013 does not give any vested right to land

owners to seek de-notification or even that upon de-notification, 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 said judgment, the Hon'ble Supreme Court held that once the land was viable and was utilized by the Government, no case is made out to release the land under Section 101-A of the Act, 2013.

Hence, Keeping in view the report dated 30.06.2022 by the District Town Planner, Faridabad (Annexure R-1), copy of email dated 21.07.2022 (Annexure R-2) and copy of zoning plan of affordable group housing colony (Annexure R-3), no case is made out to give direction to the respondents to de-notify the land of the petitioner under Section 101-A inserted vide Haryana Amendment Act, 2017 in Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Writ petition is hereby dismissed.

(RITU BAHRI)
JUDGE

30.09.2022
Divyanshi

(NIDHI GUPTA)
JUDGE

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