

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 21.03.2022

1. CWP-12140-2016

Savita Devi

....Petitioner

Vs.

State of Haryana and another

....Respondents

2. CWP-12164-2016

Jai Narain and another

....Petitioners

Vs.

State of Haryana and another

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Adarsh Jain, Advocate for the petitioner(s).

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

Ritu Bahri, J. (Oral).

This order shall dispose of two writ petitions i.e. CWP-12140-2016 and CWP-12146-2016 having an identical issue. However, facts are being extracted from CWP-12140-2016.

The petitioner is seeking writ of mandamus for declaring acquisition proceedings to have lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act, 2013') and direction to the respondents to release her land as the respondents have released the land of other private colonizers, developers and land owners vide order dated 06.01.2009 (Annexure P-9), order dated 26.08.2010 (Annexure P-10), order dated 28.04.2011 (Annexure P-11), order dated 31.12.2010 (Anexure P-12) and order dated 31.12.2013 (Annexure P-13).

The petitioner is owner in possession of land measuring 3 kanals 8 marlas being half share in land comprising in Khasra No. 45//5/2/1 (3-8), 6/2/1 (1/12) and 46//21/2 (1/15) situated in the revenue estate of Baroli Tehsil and District Faridabad. Government of Haryana vide notification dated 1.5.2006 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 30.4.2007 under Section 6 of the Act, acquired the land including the land of the petitioner for the development of residential and commercial Sectors 75 and 80, Urban Estate, Faridabad. The respondents have issued license/CLU to the private builders after passing the award in the same area. The grievance of the petitioner is that the respondents cannot utilize the land of the petitioner in any manner. Further, the respondents have released most of the land of the private colonizers and developers and land owners vide order dated 06.01.2009 (Annexure P-9), order dated 26.08.2010 (Annexure P-10), order dated 28.04.2011 (Annexure P-11), order dated 31.12.2010 (Anexure P-12) and order dated 31.12.2013 (Annexure P-13). The petitioner is still in physical possession of the land in dispute. No compensation has been paid to her. According to the petitioner, the acquisition proceedings have lapsed in view of Section 24(2) of the Act, 2013. Hence, the present writ petition.

In para 29 of the writ petition, reference has been made to a similarly situated land owner Braham Dutt son of Mattan Lal, who had filed **CWP-10057-2015** titled as ***Braham Dutt vs. State of Haryana and others*** and the said writ petition was disposed of vide order dated 26.05.2015 (Annexure P-15) by granting liberty to the petitioner to file a detailed and comprehensive representation to the respondents for release of the land within a period of one month and the same was to be decided by the

respondents by passing a speaking order within a period of three months from the date of receipt of representation.

After notice of motion, written statement dated 09.01.2017 was filed by the Land Acquisition Officer, Urban Estate Department, Haryana, Faridabad on behalf of respondents No. 1 and 2. The respondents have also placed on record a layout plan (Annexure R-1) to show that the petitioner has 8 no. plot of 10 Marla category and the area is reserved for E.W.S. housing in Sector 75 Fariadabad. It is further stated that petitioner had not filed any objection under Section 5A of the Act, and hence the petitioner is not entitled for any relief.

On 21.03.2022, learned counsel for the State has placed on record a speaking order dated 28.04.2016 passed in compliance of order dated 26.05.2015 (Annexure P-15) passed in ***Braham Dutt's case (supra)***. The said order is taken on record as Annexure R-2. A perusal of the said order shows that the representation made by the petitioner-Braham Dutt seeking relief under the provisions of Section 24(2) of the Act, 2013 has been dismissed by the Zonal Committee after granting him personal hearing. It is observed in the said order that provisions of Section 24(2) of the Act, 2013 shall apply only in those cases in which the award by the Land Acquisition Collector was announced five years or more prior to commencement of the Act meaning thereby on or before 31.12.2008. Since the award was announced on 24.04.2009, the case of Braham Dutt does not fall within the ambit of Section 24(2) of the Act, 2013. He has also placed on record speaking order dated 03.12.2018 (which is taken on record as Annexure R-3), whereby after passing order dated 28.04.2016, the petitioner Braham Dutt, again requested for release of his land in reference of which,

hearings were afforded to him by the Additional Chief Secretary to Government of Haryana, Town and Country Planning and Urban Estate Department, Panchkula and, thereafter, detailed speaking order was passed on 03.12.2018 by observing that at the time of issuance of notification under Section 4 of the Act, no construction existed and that compensation has been deposited in the Court of ADJ, Faridabad for the total land of 66 Kanala 02 Marla alongwith khasra No. 50//26(1-6). Since the land of the applicant-Braham Dutt affects planning of Sector i.e. sector roads, internal roads, residential plots, old age home and green space of Sectors 75 and 80, Faridabad and part payment has already been sent to ADJ Court, the applicant-Braham Dutt has a remedy only to apply under land pooling policy. In view of the said observation, the recommendations of the constituted Zonal Committee sent vide office letter memo no. 5694-95 dated 06.06.2018, have been approved by the competent authority i.e. Government of Haryana, whose decision was conveyed vide letter memo no. 6594-98 dated 27.08.2018 and the representation for release of the land of the applicant-Braham Dutt was disposed of.

A perusal of order dated 28.04.2016 (Annexure R-2) and speaking order dated 03.12.2018 (Annexure R-3) shows that the case of the similarly situated land owner i.e. Braham Dutt has been consistently rejected and liberty was granted to him to apply under land pooling policy.

Learned counsel for the State has also referred judgment passed by this Court in **CWP-8346-2009** titled as **Jagat Pal and others Vs. State of Haryana and others, decided on 16.05.2019**. While dismissing the said writ petition, reference has been made to a Division Bench judgment passed in **CWP-18900 of 2008** titled as **Sis Ram Vs. State of Haryana , 2010 SCC**

OnLine P&H 11945. In *Sis Ram's case (supra)*, this Court was considering release of land situated in Sectors 75 and 80, Faridabad, from acquisition. In the said case, the petitioners had not filed objection under Section 5-A of the Act. The writ petition was dismissed keeping in view that no objection was filed by the land owners/petitioners and policy framed by the Government to grant change of land use was not challenged whereby a certificate for development of colonies was issued to the developers under that policy.

In the present case as well, the petitioner had not filed any objection under Section 5-A of the Act. The acquisition proceedings with respect to Sectors 75 and 80 have been upheld by the judgment passed in *Sis Ram's case (supra)*, *Jagat Pal's case (supra)* and even in the case of *Braham Dutt*, release of land had been rejected while passing order dated 28.04.2016 (Annexure R-2) and speaking order dated 03.12.2018 (Annexure R-3).

Keeping in view of above observations made, no case to entertain these petitions is made out.

Writ petitions are hereby dismissed.

(RITU BAHRI)
JUDGE

21.03.2022
Divyanshi

(ASHOK KUMAR VERMA)
JUDGE

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