

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

CWP No.19460 of 2016  
Date of decision: 06.12.2022

M/s Reed Promoters & Developers Pvt. Ltd. and another  
...Petitioners

Vs.

State of Haryana and others  
...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Himanshu Gupta, Advocate,  
for the petitioners.

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

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**Ritu Bahri, J.**

Petitioners are seeking quashing of the notifications dated 01.07.2011 and 26.06.2012 (Annexures P-7 and P-20) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 along with impugned Award dated 08.11.2014 (Annexure P-29) passed by the Land Acquisition Collector, Urban Estate Department, Gurgaon, qua the land of the petitioners, on the ground that it has not been passed in accordance with the provisions of Section 24 (1) (a) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. A further prayer has been made to quash the order dated 23.08.2013 (Annexure P-25) passed by respondent No.2-Director General, Town & Country Planning, Haryana and to allow the applications of the petitioners under Section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975.

Case of the petitioners is that they had applied for licence for developing a colony measuring 51.2 acres before issuance of the first notification dated 01.07.2011 (Annexure P-7). Their applications were duly processed and all the relevant reports were obtained without any objection. Petitioner No.1-company purchased land measuring 187 Kanals 13 Marlas from the land owners through separate sale deeds dated 30.05.2011 and 14.06.2011 (Annexure P-1, Colly.). The said land is situated in the revenue estate of village Kalaka and Jhanjhanwas, Tehsil and District Rewari. In this regard, copies of mutations are attached as Annexure P-2 (Colly.). Petitioner No.2 is owner of total land measuring 224 Kanals, situated in the revenue estate of village Kalaka and Jhanjhanwas, Tehsil and District, Rewari, which was purchased through three separate sale deeds dated 14.06.2011 (Annexure P-3, Colly.). Copies of mutation sanctioned in respect of these sale deeds are attached as Annexure P-4 (Colly.). For the purpose of developing a colony, both the petitioners executed a Memorandum of Understanding (MOU) dated 23.06.2011 (Annexure P-5). After issuance of notification dated 01.07.2011 (Annexure P-7) under Section 4 of 1894 Act, they filed their objections dated 21.07.2011 (Annexure P-8) under Section 5A of the said Act stating that after purchasing the said land, they had applied for licence in order to develop a township thereon. Therefore, they prayed for release of land from acquisition as per policy dated 24.01.2011 (Annexure P-9).

Thereafter, on 18.07.2011, petitioner No.1, as a leading company and petitioner No.2, as a confirming party, entered into a Memorandum of Understanding (Annexure P-10) with the villagers for the land measuring 19 Kanals 8 Marlas, co-owned by the villagers, for

developing the same as a township. The land, qua which the said MOU was entered, is detailed in Annexure P-11. Thereafter, the petitioners applied for grant of licence and submitted all the relevant documents, plans and requisition license and security fees. The District Town Planner, Rewari, sent a letter dated 08.12.2011 (Annexure P-12) to the Senior Town Planner, Gurgaon and submitted a report regarding the documents, which had been annexed with the application. Vide letter dated 10.12.2011 (Annexure P-13), the Senior Town Planner, reported the matter to the Director General Town and Country Planning. Thereafter, the petitioners received a letter dated 03.01.2012 (Annexure P-14), wherein reference was made to a policy dated 26.10.2007 (Annexure P-15) and not to the policy dated 24.01.2011 (Annexure P-16), which was applicable to the case of the petitioners.

Grievance of the petitioners is that the matter was referred to the Joint Site Inspection Committee (JSIC) and recommendation of the said committee was submitted on 25.05.2012. The JSIC recommended release of 102.91 acres of land falling in four villages, namely Konsiwas, Jhajhanwas, Piwara and Kalaka. However, no decision with respect to release of land of the petitioners was taken as the application for grant of licence was pending. Complete report of the JSIC is attached as Annexure P-17. Land of the petitioners was recommended to be acquired vide report Annexure P-18. As per petitioners, their objections filed under Section 5A of 1894 Act were not heard in a proper manner. Thereafter, notification dated 26.06.2012 (Annexure P-20) under Section 6 of the Act was issued and award dated 08.11.2014 (Annexure P-29) was passed. Even, application filed by the petitioners for grant of license for developing a colony was rejected vide order/memo dated 23.08.2013 (Annexure P-25) on the ground that the land

applied for grant of license was notified by the respondent No.3 vide notification dated 01.07.2011 (Annexure P-7) issued under Section 4 and declaration dated 26.06.2012 (Annexure P-20) issued under Section 6 of 1894 Act. It was further stated that the land could not be released keeping in view the interim order dated 13.02.2012 passed by Hon'ble the Supreme Court in SLP No.28411 of 2011 (**Kishore Chhabra vs. State of Haryana and others**), whereby it was observed that the State would be free to implement the policy instructions dated 26.10.2007 in appropriate deserving cases. Petitioners, thereafter, filed a review application dated 15.11.2013 (Annexure P-26) against the order dated 23.08.2013 (Annexure P-25) before respondent No.2. Later on, a reminder dated 06.06.2014 (Annexure P-27) was also sent, but action was taken thereon. Thereafter, petitioners, along with other land owners, approached this Court by filing CWP No.15879 of 2014. Vide order dated 09.10.2014, passed by this Court in that petition, both the parties were directed to maintain *status quo* with regard to possession over the land in dispute. Upon notice in that petition, respondents filed written statements, copies of which are attached as Annexure P-28 (Colly.). In the meanwhile, respondents passed an award dated 08.11.2014 (Annexure P-29) i.e. after two years of issuance of declaration under Section 6 of 1894 Act. In this backdrop, the present petition has been filed.

Upon notice, written stated dated 11.05.2017 has been filed on behalf of respondent No.2-Department of Town & Country Planning, Haryana, wherein it is stated that the petitioners had purchased the land in dispute only on 14.06.2011, whereas, the notification under Section 4 of 1894 Act was issued on 01.07.2011. The land was purchased by the

petitioners only on the eve of issuance of notification under Section 4 of the Act with an intention to get the land released from acquisition. Further, the petitioners have challenged the order dated 23.08.2013 (Annexure P-25), whereby respondent No.2 has rejected their application for grant of license for developing a residential plotted colony on the land measuring 51.10 acres falling in the revenue estate of village Jhanjhanwas and Kalaka in Sector 21, Rewari. It is stated that the petitioners had alternative remedy to file an appeal under Section 19 of the Haryana Development and Regulation of Urban Areas Act, 1975 with the Appellate Authority, before approaching this Court. However, they have not availed the alternative and efficacious remedy of appeal and hence, the writ petition is not maintainable. With respect to framing of policy for release of land from acquisition, reference has been made to the observations given by this Court in CWP No.10412 of 2007 (**M/s Unitech Ltd. And another vs. State of Haryana and others**). During the hearing of said petition, the Government had framed a comprehensive policy dated 26.10.2007 providing for release of land from acquisition. The said policy was upheld by this Court in a number of cases. However, vide order dated 22.12.2008 passed by this Court in CWP No.17463 of 2007 (**Hari Chand and others vs. State of Haryana and others**), it was observed as under:-

“Therefore, we cannot accept the policy of the State Government to grant licence in favour of a colonizer who had no interest in the land before issuance of notification under Section 4 and who has acquired interest either by entering into a collaboration agreement or by acquiring ownership rights after notification under Section 4 of the Act. The respondent State would not be entitled to issue license to land owners or a private colonizer after issuance of notification

under Section 4.

We further clarify that any policy of the respondent State to the contrary shall be deemed to be ultravires of the provisions of Land Acquisition Act and Article 14 of the Constitution. However, the petitioner may challenge the grant of license to such colonizer by giving their detailed particulars.”

Finally, Hon'ble the Supreme Court in SLP No.28411 of 2011 (**Kishore Chabbra vs. State of Haryana and othes**), observed that the State was free to implement the policy decision contained in circular dated 26.10.2007 in appropriate deserving cases. The State Government, after taking advice of LR, Haryana, grant approval vide Annexure R-1 and observed that grant of license by release of land would not fall within the category of appropriate deserving cases. After receipt of the above said order, no license was granted to the petitioners.

Separate written statement dated 24.07.2019 was filed by the Land Acquisition Collector, Urban Estate, Gurugram, on behalf of respondent Nos. 1 and 3, stating therein that award, in the present case, was passed in the year 2014. Possession of the land had already been taken on 08.11.2014 and handed over to the representative of HUDA, now HSPV, vide Rapat No.182 dated 08.11.2014. Compensation amounting to Rs.11,73,14,513/- and Rs.10,22,51,241/- in respect of land falling in the revenue estate of villages Jhajanwas and Kalka, Tehsil and District Rewari, qua petitioner No.1 and Rs.11,89,37,079/- and Rs.12,12,52,273/- in respect of land falling in the revenue estate of villages Kalka and Jhajanwas, Tehsil and District Rewari, qua petitioner No.2, has already been received by them through RTGS on 06.07.2018. Along with the written statement, copy of the

*Sizra-cum-layout plan* has been attached as Annexure R-1 to show that the

land in question has been acquired for a public purpose, namely, for development and utilization of land for residential purpose at Sector 20 and 21, Rewari. After issuance of notification dated 01.07.2011 under Section 4 of 1894 Act, objections under Section 5A of the Act were received. Thereafter, the Land Acquisition Collector had recommended release of land measuring 103.7 acres on the ground that residential structure was constructed thereon. The Government accepted the recommendation of the Land Acquisition Collector, Gurugram and the aforesaid land was not included in the notification declared under Section 6 of 1894 Act. As far as land of petitioners is concerned, it was lying vacant and this fact is reflected in the objection report (Annexure R-2). After issuance of the notification under Section 6 of the Act, land measuring 27.71 acres was released being constructed area. It is further stated that in respect of village Kalaka, compensation to the tune of Rs.1,59,73,06,742/- was deposited in favour of LAC, Gurugram, out of which, Rs.1,13,79,70.850/- (approximately 71%) was paid to the landowners. Rest of the amount is lying in the account of the LAC, Gurugram. Further, in respect of village Jhajanwas, total acquired land was measuring 56.3 acres and compensation amounting to Rs.45,84,67,581/- was paid to the landowners. Rest of the amount is lying in the account of LAC, Gurugram. The respondents have placed on record copies of the orders dated 05.08.2016, 21.07.2016, 14.07.2016, 15.07.2016 and 06.07.2015 (Annexure R-3), whereby petitions challenging the present acquisition proceedings have been dismissed by this Court.

A perusal of the orders dated 05.08.2016, 21.07.2016, 14.07.2016, 15.07.2016 and 06.07.2015 (Annexure R-3) shows that the

department had released the constructed portion of the land and acquired the remaining vacant land. On this ground, no case was made out to interfere in the impugned acquisition proceedings. However, liberty was granted to the landowners to seek their remedy for enhancement of compensation as per law.

When the present case was taken up for hearing on 10.01.2020, learned State counsel had informed that during the pendency of this petition, compensation of approximately Rs.50 Crores has been received by the petitioners. The matter was adjourned to enable learned counsel for the petitioners to get instructions, if any cause of action survives in this petition.

In the present case, as per written statements filed by the respondents, the entire compensation has been deposited with the LAC concerned. Even, the writ petitions challenging the present notifications were dismissed vide orders dated 05.08.2016, 21.07.2016, 14.07.2016, 15.07.2016 and 06.07.2015 (Annexure R-3). Only the constructed area has been released from acquisition. Since, as per layout plan (Annexure R-1), land of petitioners was found to be vacant, it has been rightly acquired and not released from acquisition proceedings. Once, possession was taken, the land vested with the State Government as per the judgment passed by the Constitution Bench of Hon'ble the Supreme Court in **Indore Development Authority vs. Manoharlal and others etc. Etc.**, SLP (Civil) No.9036 (CA) of 2016 (decided on 06.03.2020).

In the case of the petitioners, when notification under Section 4 of the Land Acquisition Act, was issued, the petitioners and other landowners had filed their objections under Section 5-A of the Act and constructed portion of the land had been released before issuing the

notification under Section 6 of the Act. The petitioners' land was found to be vacant. Now, the petitioners cannot claim release of vacant land in view of the judgment passed in **Indore Development Authority's** case (supra). Moreover, after accepting the compensation, the vacant land vests in the State. Hence, case of the petitioners has been rightly rejected by the competent authorities by passing the impugned order dated 23.08.2013 (Annexure P-25). No ground is made out to interfere therein.

Resultantly, finding no merits, present petition is dismissed.

(RITU BAHRI)  
JUDGE

(MANISHA BATRA)  
JUDGE

06.12.2022  
ajp

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