

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

CWP-30614-2018

Date of decision:- 07.12.2022

Gurmeet Kaur

....Petitioner

VS.

State of Punjab and ors.

...Respondents

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

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

Ms. Anu Pal, Sr. DAG, Punjab

Mr. Puneet Kansal, Advocate
for respondent No. 2 and 4.

Ritu Bahri, J.

In the instant petition, petitioner is seeking issuance of direction to the respondents to restore the proprietary, attached, available and legal and all other ancillary rights of the land measuring 12 Marlas i.e 1/6th share out of land measuring 3 kanals 12 marlas comprising of khasra No. 14112/8373/3-12, Khewat No. 133, Khatauni No. 289, situated at Faridkoat Kotkapura Road, Faridkot.

The facts in brief are that petitioner purchased the above land on 05.12.2003, vide sale deed (P-1). Thereafter, on 15.05.2006 (P-2), the respondent-State of Punjab issued the gazette notification intending to

acquire the land to raise a residential colony known as Lala Lajpat Rai Nagar and total 6.318 acre which includes 12 marlas land of the petitioner was acquired. The Improvement Trust has published the first publication in the newspaper on 02.09.2005 (P-3) and thereafter issued notice on 24.04.2008 under Section 9 of the Land Acquisition Act (P-4) to which the petitioner filed objections dated Nil and additional objections (P-5 and P-6 respectively). Finally an award dated 14.05.2008 (P-7) was passed. The petitioner then filed a civil suit against the Improvement Trust and the said suit was dismissed and even the appeal was also dismissed.

Learned counsel for the petitioner submits that after a gap of 07 years, the scheme has become non-existent and deadwood and the same is no more surviving qua the petitioner, keeping in view the settled law. The petitioner is now thus seeking restoration of her rights in view of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and has given notice dated 20.10.2018 (P-9) in this regard.

Learned counsel further submits that the petitioner is in continuous possession of her land in dispute, keeping in view the photographs dated 06.11.2018 (P-10 to P-14).

On notice, a reply dated 21.12.2019 has been filed on behalf of respondent Nos. 2 and 4 and at the very outset has mentioned that earlier also petitioner filed CWP No. 836-2009 seeking quashing of acquisition process under Section 36 and 42 of the Punjab Town Improvement Act, 1922 dated 24.04.2008. The said petition was disposed of on 29.07.2010 (R-2/1) by giving direction to the respondents to assess the compensation in

disburse the same within one month thereafter. The petitioner was given liberty to avail the remedy in accordance with law for making a reference incase she feel that the compensation awarded is less. In compliance of the above order, the compensation was assessed at Rs.21,48,531/- and letter dated 27.10.2010 (R-2/2) was also issued to the petitioner intimating her that the said compensation be collected by her from the Land Acquisition Collector cum SDM Faridkot. Thereafter, the petitioner again filed a suit for permanent and mandatory injunction but the same was dismissed on 04.08.2017 (R-2/3) and it was held that on the basis of the evidence led before the learned Court the petitioner is not entitled to the issuance of permanent and mandatory injunction as prayed for. Further it was held that on account of the amount having been deposited with the Land Acquisition Collector, the suit for grant of mandatory injunction is not maintainable. The appeal filed against the judgment dated 04.08.2017 was also dismissed on 25.10.2018 (R-2/4).

To the same effect is the reply filed by respondent No. 1.

Heard learned counsel for the parties at length.

It is not in dispute that this is the 3rd round of litigation initiated by the petitioner. With respect of the argument of learned counsel for the petitioner that the land of the petitioner has not been utilized for the purpose for which it was acquired, reference at this stage can be made to Division Bench judgment of this Court in a case of Ajaib Singh and others vs. State of Punjab and others, decided on 04.12.2017 in CWP No. 9662-2015 wherein the plea of the petitioner was that the acquisition of the land by Improvement Trust, Sangrur has lapsed in view of provisions of Section 24

Acquisition, Rehabilitation and Resettlement Act, 2013. This Court referred to a Division Bench judgment of this Court in a case of ***Bhatinda Improvement Trust vs. Madan Lal and others***, 2016 (4) RCR (Civil) 682 wherein while relying upon the order passed by Hon'ble the Supreme Court in SLP (Civil) Nos. .8565-8567 of 2011 titled as Gurcharan Singh and others versus State of Punjab and others, in para 25, it was observed as under:-

“A close reading of Section 24 makes it clear that land acquisition proceedings under Land Acquisition Act, 1894 (for short, ‘the 1894 Act’) are deemed to have lapsed in certain cases which are indicated in the provision. Since the acquisition of the subject land has taken place under the 1922 Act and not under the 1894 Act, Section 24 has no application at all.”

It has been opined that the 2013 Act has no application to the acquisition of land under the 1922 Act, as it has its application only for the acquisition proceedings under the Land Acquisition Act, 1894. Accordingly, the writ petition was dismissed.

The above said judgment is directly applicable to the facts of the present case as in the present case as well the proceedings were initiated on 24.04.2008 (P-4) and the final award was passed on 14.05.2008 (P-7). The proceedings cannot be said to have been lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This issue has attained finality up to Hon'ble the Supreme Court as observed in ***Ajaib Singh's case (supra)***.

Apart from the said fact, the petitioner has already availed her

remedy and this is the third round of litigation.

No merits.

Dismissed.

(RITU BAHRI)
JUDGE

07.12.2022
G Arora

(MANISHA BATRA)
JUDGE

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