

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

Reserved on: 22.08.2023

Pronounced on: 29.08.2023

1. **CWP-18687-1991**

M/S MAYA ENGINEERING WORKSPetitioner

Versus

STATE OF HARYANA & ORS.Respondents

2. **CWP-834-1992 (O & M)**

M/S RIB AND SONS PVT. LTD.Petitioner

Versus

STATE OF HARYANA AND ORS.Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Akshay Bhan, Senior Advocate assisted by
Mr. Aman Bansal, Advocate
for the petitioner (in CWP-18687-1991).

Mr. S.M.Sharma, Advocate
for the petitioner (in CWP-834-1992).

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

SURESHWAR THAKUR, J.

1. Since both the writ petitions relate to common questions of law, and also with the facts therein being identical, therefore, the same are being disposed of through a common order. Importantly when the impugned notification(s) for acquisition in both the writ petitions are for the development and utilization for Industrial Sector-58, Faridabad.

2. Through the instant petitions, the petitioner(s) challenges

the respective issuance(s) of notification(s) Annexures P-27 and P-28 (in CWP-18687-1991) and Annexures P-28 and P-29 (in CWP-834-1992). Annexures whereof respectively embody therein notification(s) as became respectively issued under Section 4 and Section 6 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894').

3. Since in pursuance to the above notification(s) (supra), an award became pronounced on 19.12.1991 (Annexure P-26 in CWP-834-1992), thereby also it is argued before this Court that the said award is required to be also quashed and set aside.

4. However, in respect of writ lands (in CWP-18687-1991), no award became pronounced, as stay by this Court, through an order made by this Court on 18.12.1991, against the pronouncement of award thus became made.

Facts of the case.

4. Though initially through notification(s) (supra), which hence became respectively issued under Sections 4 and 6 of the 'Act of 1894', thus respectively in the years 1981 and 1983, thus the lands embodied in the said acquisition notification(s) were ordered to be released, and/or the said notification(s) were allowed to lapse owing to coming into force of certain amendments to the 'Act of 1894'.

5. However, as stated (supra), subsequently the impugned notification(s) and also the impugned award became pronounced in pursuance theretos.

Submissions of the learned counsel for the petitioner(s).

6. The learned counsel for the petitioner(s) submits, that though the notification(s), as became issued under Section 4 of the 'Act

of 1894', for acquisition of the writ lands became issued respectively on 26.12.1988 (Annexure P-27 in CWP-18687-1991 and Annexure P-28 in CWP-834-1992), and also became followed by a declaration becoming issued under Section 6 of the 'Act of 1894', thus on 22.12.1989 (Annexure P-28 in CWP-18687-1991 and Annexure P-29 in CWP-834-1992). However, he submits that since on 25.03.1983 and on 10.05.1991, hence on a date prior to the making of the award on 19.12.1991 (in CWP-834-1992), agreement(s) (Annexure P-6 in CWP-834-1992 and Annexure P-18 in CWP-18687-1991) rather became executed inter-se the petitioner(s) and the Chief Administrator, Haryana Urban Development Authority, Chandigarh and the Governor of Haryana, acting through the Director, Urban Estate Department, Haryana, Chandigarh. Therefore, they submit that the said agreements carrying therein the hereinafter extracted conditions, conditions whereof did also become complied with, thus as revealed by (Annexure P-31 in CWP-18687-1991 and Annexures P-12, P-15 and P-16 in CWP-834-1992).

(Extraction of agreement (Annexure P-18) in CWP-18687-1991.

NOW THIS DEED WITNESSETH AS FOLLOWS

In consideration of the Governor agreeing to release to the promisee the land/building out of acquisition and to utilise the said land /building mentioned in the Annexure 'A' annexed hereto on fulfilling the following conditions by the promisee, the promisee hereby convents as follows:-

- a) That the promisee shall pay development charges to the Haryana Urban Dev. Authority which shall be a first charge on the land/building as and when required and as determined by the promisee respect of development works*

which may be carried out in the area for the benefit of the said land ;

b) That the promisee shall provide land for roads, parks and other amenities in the said land as per the specifications and directions of the promisor ;

c) That the promisee shall got the building plan approved from the Estate Officer, before commencing any constructions on the said land, provided that in the case of site having built-up structure the promisee shall submit the building plan for record and obtain approval for additions and instructions from the Estate Officer.

d) That the promisee shall not, except with the previous permission of the promisor sell the land/building or portion thereof. The promisee shall use the land/building only for purposes for which it has been released and in accordance with the plans approved by the Estate Officer and not other purposes whatsoever. The promisee shall also not fragment the said land/building. No obnoxious trade or activity shall be carried out or in any portion of the said land/ building.

e) That the promisee shall have to pay all general and local taxes/rates or cesses imposed or assessed on the said land/building by the competent authority.

f) That the promisee shall start the construction of the said land within a period of two years from the date of this agreement.

g) That the promisor (Haryana Urban Development Authority) may be its officers and servants at all reasonable times and in reasonable manners after 24 hours notice in writing enter in or upon any part of the said land/building erected thereon for the purpose of ascertaining that the promisee has duly performed and observed the conditions to be observed under the Rules/Regulations applicable under the Haryana Urban Development Authority Act, 1977;

- h) That the stamp paper and registration charges shall be borne by the promisee ;*
- i) That the promisee shall not claim any amount of compensation for damages, if any, suffered by the promisee in consequence of any acquisition proceedings;*
- j) That the promises shall return the compensation of land/building, if any, received by him for the acquisition of the said land ;*
- k) That in the event of failure to pay the development charges or any other amount due from the promisee, the promisor shall have the right to recover the same in the same manner as an arrears of land revenue ;*
- l) That the promisee shall abide by the provisions of Haryana Urban Development Authority Act, 1977 and Rules/ Regulation framed thereunder from time to time.*
- m) That all the disputes and differences arising out of in any way touching or concerning any clause of this agreement shall be referred to the promiser or any other officer appointed by him in this behalf. The decision of such arbitrator shall be final and binding and both the parties.*

It is hereby agreed that if the promisee shall commit any breach of the terms and conditions of this agreement then, notwithstanding waiver of any previous clause or right, promisor may revoke the release of land/building allowed to him.”

7. Consequently, they submit that since the agreements (supra), became drawn on behalf of the Governor of Haryana by the Director, Urban Estate Department, Haryana, Chandigarh and the Chief Administrator, Haryana Urban Development Authority, Chandigarh. In sequel, they further submit that when in terms of Rules 4 and 8 of the Rules of Business of the Government of Haryana, 1977, provisions

whereof are extracted hereinafter, the Council of Ministers are both respectively responsible, and/or are bound by the agreements (Supra). Paramountly, hence they submit that when all the conditions precedent for its becoming put to completest functionality, thus also become complied with, rather as revealed by (Annexure P-31 in CWP-18687-1991 and Annexures P-12, P-15 and P-16 in CWP-834-1992), thereby the principle of promissory estoppel becomes attracted theretos.

“4. The Council shall be collectively responsible for all executive orders issued in the name of the Governor in accordance with these rules whether such orders are authorised by an individual Minister on a matter pertaining to his portfolio or as a result of discussion at a meeting of the Council or howsoever otherwise.

8. All order or instruments made or executed by or on behalf of the Government of the State of Haryana shall be expressed to be made or executed in the name of the Governor.”

8. The further contention of the learned counsel for the petitioner(s), as became erected thereons, is that, reiteratedly thereby the principle of promissory estoppel, rather becomes attracted. The said principle becomes propounded in a judgment made by the Hon'ble Apex Court in case **State of Jharkhand Vs. Brahmputra Metallics Ltd., Law Finder Doc id # 1774693**, wherein in paragraphs No. 27 and 28, paras whereof becomes extracted hereinafter, the equitable principle of promissory estoppel has been propounded, whereby actings upon by the promisee with the conditions spelt in the agreements (supra), and/or theirs' thus becoming evidently complied with, thereupon, there an estoppel is generated, against the respondent

concerned, rather from reneging therefrom and/or to proceed thereafter to make an award in pursuance to the notification (supra).

27 In order to analyze the contentions relating to the doctrine of promissory estoppel in the present case, it is necessary to discuss the origin of the doctrine and the evolution of its application. The common law recognizes various kinds of equitable estoppel, one of which is promissory estoppel. In Crabb vs Arun DC 13, [1976] 1 Ch 179 (Court of Appeal).

Lord Denning, speaking for the Court of Appeal, traced the genesis of promissory estoppel in equity, and observed:

“The basis of this proprietary estoppel – as indeed of promissory estoppel – is the interposition of equity. Equity comes in, true to form, to mitigate the rigours of strict law. The early cases did not speak of it as “estoppel”. They spoke of it as “raising an equity” If I may expand that, Lord Cairns said: “It is the first principle upon which all Courts of Equity proceed”, that it will prevent a person from insisting on his legal rights – whether arising under a contract or on his title deed, or by statute – when it would be inequitable for him to do so having regard to the dealings which have taken place between the parties.”

28. The requirements of the doctrine of promissory estoppel have also been formulated in Chitty on Contracts (“Chitty”) 14 Hugh Beale, Chitty on Contracts (32nd edn., Sweet and Maxwell 2017). “4.086. For the equitable doctrine to operate there must be a legal relationship giving rise to rights and duties between the parties; a promise or a representation by one party that he will not enforce against the other his strict legal rights arising out of that relationship; an intention on the part of the former party that the latter will rely on the representation; and such reliance by the latter party. Even if these requirements are satisfied, the operation of the doctrine

may be excluded if it is, nevertheless, not “inequitable” for the first party to go back on his promise. The doctrine most commonly applies to promises not to enforce contractual rights, but it also extends to certain other relationships. 4.088.....The doctrine can also apply where the relationship giving rise to rights and correlative duties is non-contractual: e.g. to prevent the enforcement of a liability imposed by statute on a company director for signing a bill of exchange on which the company’s name is not correctly given; or to prevent a man from ejecting a woman, with whom he has been cohabitating, from the family home.”

Chitty (supra) clarifies that the doctrine of promissory estoppel may be enforced even in the absence of a legal relationship. However, it is argued that this would be an incorrect application of the doctrine since it gives rise to new rights between the parties, when the intent of the doctrine is to restrict the enforcement of previously existing rights:

“4.089. It has, indeed, been suggested that the doctrine can apply where, before the making of the promise or representation, there is no legal relationship giving rise to rights and duties between the parties, or where there is only a putative contract between them: e.g. where the promisee is induced to believe that a contract into which he had undoubtedly entered was between him and the promisor, when in fact it was between the promisee and another person. But it is submitted that these suggestions mistake the nature of the doctrine, which is to restrict the enforcement by the promisor of previously existing rights against the promisee. Such rights can arise only out of a legal relationship existing between these parties before them making of the promise or representation. To apply doctrine where there was no such relationship would contravene the rule (to be discussed in

para.4-099 below) that the doctrine creates no new rights.”

9. They further submit that the above view has been also propounded in a judgment made by the Orissa High Court titled as **Shree Jagannath Packers Vs. State of Orissa (Odisha), Law Finder Doc id # 691830.**

10. In short, they submit that the above principle though is founded upon equity and but may become capsized, upon, post the drawing of the said annexures, thus the said agreement(s) becoming evidently pronounced to be rather perpetrating inequity upon the respondent concerned. Nonetheless, they submit that there is no tangible material placed on record by the respondent to suggest, that post the drawing of agreements (supra), especially despite the conditions set forth therein, (Annexure P-31 in CWP-18687-1991 and Annexures P-12, P-15 and P-16 in CWP-834-1992), rather also becoming evidently complied with, that yet there is perpetration of any inequity upon the respondent concerned. Therefore, they submit that the principle of promissory estoppel enshrined in verdict(s) (supra), becomes fully attracted to the agreement(s) (supra), thereby the challenges made to the notification(s) (supra) are required to be endorsed by this Court.

Submission of the learned State Counsel.

11. The learned Additional Advocate General, Haryana has very forcefully argued before this Court, that the above made argument is eclipsed, by the factum of the dire necessity of the acquired lands thus being put to utilization hence for furthering the requisite public purpose. Consequently, he argues that as such, in case the above

argument addressed before this Court by the counsel for the petitioner(s), is accepted, thereby post the drawing of the acquisition proceedings inequity would become perpetrated upon the respondent concerned, thus thereby the principle of promissory estoppel does not become attracted qua the agreements (supra).

12. He further submits that since in verdicts made by this Court as well as the Hon'ble Apex Court respectively in M/s Balwant Singh Sher Singh Rice Mills Vs. State of Haryana 2007 (3) R.C.R. (Civil) 839; Ghansham Dass and Others Vs. State of Haryana and Others 1986 (1) PLR 513; Gian Chand and Others Vs. State of Haryana and Others 2010 (51) R.C.R. (Civil) 818; State of Haryana Vs. Eros City Developers Pvt. Ltd. and Others 2016 AIR (SC) 451; State of Haryana Vs. M/s Vinod Oil and General Mills and Another 2014 (15) SCC 410; Laxmi Educational Society, Manesar and Others Vs. State of Haryana and Others 2022 (4) RCR (Civil) 239 and Faizabad-Ayodhya Development Authority Vs. Dr. Rajesh Kumar Pandey 2022 (8) Scale 774, wherein, it becomes propounded that despite earlier re-callings of notification(s) for acquisition, yet the acquiring authority becoming not deprived to re-issue notification(s) for acquisition of the writ lands. Therefore, he submits that the re-drawings of the acquisition notification(s) and also the making(s) of an award in pursuance thereof, despite earlier thereto the apposite notification(s) becoming withdrawn, rather becomes infused with a virtue of vindication.

13. The learned Additional Advocate General, Haryana has also argued that irrespective of sanctions or approvals, if any, thus becoming granted to the petitioner, yet the issuance of notification(s)

(supra) besides the award made pursuance thereof, is but fully protected by the judgments (supra), wherein, it has been propounded that the issuance(s) or grant of CLUs or NOCs at a stage earlier to the launching of acquisition proceedings, does not work as estoppel, against the Government to make lawful acquisitions of the writ lands.

Reasons for accepting the submissions of the learned counsel for the petitioner (in CWP-18687-1991), rejecting the submissions of the learned State counsel and assigning finality and conclusivity to the agreement (Annexure P-18).

14. 1) The arch of the entire *lis* (CWP-18687-1991) is dependent upon the agreement (Annexure P-18) besides is dependent upon evident compliance with the conditions precedent, as, embodied therein. It is but evident from a perusal of (Annexure P-31) that the conditions precedent, as enshrined in the agreement (supra) hence becoming complied with by the petitioner.

2) The declaration under Section 6 of the 'Act of 1894' became issued on 22.12.1989 whereas, the agreement (Annexure P-18) became executed on 10.05.1991, therefore, the drawing of the agreement (supra) was made prior to the pronouncement of an award, pronouncement whereof was stayed by this Court, through an order made on 18.12.1991.

3) Annexure P-18 (supra) has been drawn in the name of the Governor acting through the Director, Urban Estate Department, Haryana, Chandigarh and the Chief Administrator, Haryana Urban Development Authority, Chandigarh. Therefore, in the drawing of the above

annexure in the name of the Governor of Haryana, they are to be construed to be made through takings of executive action thus in terms of Article 166 of the Constitution of India.

4) Therefore, when the formulations of above extracted Rules of Business of the Government of Haryana, 1977, also are in terms of the above Article 166 of the Constitution of India besides when the Rules of Business (supra), both make the Council of Ministers collectively responsible for the drawing of agreement (supra) and also encumber upon them the obligation to comply with the action takings in terms of Rules (supra). Therefore, but concomitantly the respondent concerned, became obligated to revere the agreement (supra), especially when the condition precedents, as enshrined in the agreement (supra), became evidently complied with, thus as manifestative from Annexure P-31, rather than theirs' taking to renege therefrom.

5) The above complied with agreement (supra) at the instance of the present petitioner also attracts theretos the provisions of Section 5 (A) of the 'Act of 1894'. The reason being that even if no scribed objections in terms of Section 5(A) became made by the present petitioner before the authority concerned, yet when the agreement (Annexure P-18) was drawn subsequent to the notification(s) (supra) for acquisition. Therefore, the agreement (Annexure P-18) is deemed to be made, in

pursuance to certain objections being raised against the petition lands being put to acquisition. Moreover, the drawing of (Annexure P-31) is deemed to be made but a measure of acceptance by the authority concerned of the said raised objections at the instance of the petitioner, as relate to the lands being not put to acquisition. Predominantly, also when yet no award in respect of the writ lands (in CWP-18687-1991) has been made.

15. The further sequel of the above, is that, the Collector concerned, was required to be communicated about the drawings of agreement (Annexure P-18), thus apparently in terms of Section 5(A) of the 'Act of 1894', especially when Sub Section (2) of Section 5(A) speaks, about the decisions, on the said objections which resulted in the execution of agreement (supra), at the instance of the concerned, thus is to be assigned finality and conclusivity.

16. The non assigning of finality and conclusivity to the said objections rather by the Collector concerned, thus causes a breach to the agreement (Annexure P-18), which for reason (supra), is drawn on behalf of the Governor of Haryana by the Director, Urban Estate Department, Haryana, Chandigarh and the Chief Administrator, Haryana Urban Development Authority, Chandigarh with the present petitioner, and, thus thereby is deemed to be made in the exercise of the executive functions by the State functionaries, hence in terms of Article 166 of the Constitution of India.

17. Resultantly when the Rule (supra) also mandates that the said drawings but encumber upon the Councils of Ministers, thus an

apposite joint collective responsibility besides require reverence thereto

being meted. Therefore, there was no occasion for the Collector concerned, to yet proceed to make an award, pronouncement whereof was stayed, through an order made by this Court, on 18.12.1991. In consequence, the principles of promissory estoppel as enshrined in the judgments (supra), as relied upon by the learned counsel for the petitioner, is applicable to the drawing of agreement (Annexure P-18). Necessarily when for reasons (supra) there is acquiescence to the objections raised under Section 5(A) of the 'Act of 1894' but with a further sequel of acceptance of no inequity thus post drawings of agreement (supra) rather becoming wreaked upon the respondent.

18. Though, the learned Additional Advocate General, Haryana has vehemently argued that post the drawing of agreement (supra), inequity yet would become perpetrated upon the respondent concerned, thereby the principle of promissory estoppel but rested on the plank qua no inequity, thus post the drawing of agreement (supra), rather ensuing to the respondent concerned, thus becomes breached. Therefore, he argues that the above made argument by the counsel for the petitioner may not be accepted. However, for all the reasons (supra), when the said instrument (Annexure P-18) was drawn prior to the pronouncing of the award, though pronouncement whereof being stayed by this Court, and but is deemed to be made in terms of Section 5(A) of the 'Act of 1894'. Therefore, the said instrument (Annexure P-18) acquire finality and conclusivity. Resultantly the respondent concerned became estopped by the principle of promissory estoppel to renege therefrom. Moreover, thereby too there would be no wreaking of any inequity qua the respondent nor there would be any occasion for thus

the above enshrined principle of promissory estoppel becoming jettisoned.

19. Though the judgments (supra), as relied upon by the learned State counsel, empowers the State Government to even after withdrawal of earlier notification for acquisition of the writ lands, thus re-put the writ lands to re-acquisition. However, the stark distinctive fact therefrom as accrueable in the instant case, is anchored upon, the above instrument (Annexure P-18), and to which for reasons (Supra) finality and conclusivity is to be assigned, and whereto also for reason (supra), hence the principle of promissory estoppel becomes fully attracted. Therefore, given the above factual distinctivity inter-se the facts in the case (supra) with the facts in verdict(s) (supra). Resultantly the above made argument by the learned Additional Advocate General, Haryana rather pales into insignificance.

20. Though the learned Additional Advocate General Haryana, has also argued on judgments (supra) which do not validate any CLUs or any NOCs, as became granted to the entity or persons concerned, but which rather propound that irrespective of issuance of CLUs or NOCs by the department concerned, yet the lands concerned being amenable for being put to lawful acquisition. Though, he subsequently argues, that any authorization(s) becoming bestowed upon the petitioner, by the department concerned, would not yet dis-empower the Government, to acquire the writ lands. However, the facts of the above cases are dependent upon the CLUs concerned, whereas, the stark distinctive fact therefrom rather in the instant case, is planked upon the validity of the instrument (Annexure P-18) which for reasons (supra) has been

distinctivity inter-se the facts in verdicts (supra), with the facts at hand, does also restrain this Court, against applying the *ratio decidendi*, as enshrined therein, and as relates to the Government concerned hence not being dis-empowered to put the lands to acquisition, despite the grant of CLUs or NOCs, to the petitioner(s) rather by the Department concerned.

Reasons for rejecting the submissions of the learned counsel for the petitioner (in CWP-834-1992), and accepting the submissions of the learned State counsel.

21. Be that as it may, since in the CWP-834-1992, it is evident that the sale deeds (Annexure P-2 to P-5), became executed post the issuance of notification(s) under Sections 4 and 6 of the 'Act of 1894'. Therefore, the said deeds of conveyance are vitiated, as on launching of the acquisition proceedings, the vendor became divested of any right, title or interest over the acquired lands, whereas, complete investment of right, title and interest over the acquired lands became conferred upon the acquiring authority. As such, the objections filed under Section 5 A of the 'Act of 1894' at the instance of the land loser concerned, were untenable, as at that stage, he has lost right, title and interest over the disputed lands. Moreover also, in the face of the above no instrument (Annexure P-6) could be drawn inter-se the land loser concerned and the authority concerned. The reason being that, when title in the writ lands became vested for reason (supra) in the acquiring authority, thus the instrument (supra) is tainted with a vice of illegality. Therefore, insofar as **CWP-834-1992** is concerned, this Court is constrained to dismiss the same.

Final Order of this Court.

22. In aftermath, this Court finds merit in the writ petition **CWP-18687-1991**, and, with the above observations, the same is allowed. The impugned notification(s) for acquisition is quashed and set aside.

23. However, in respect of **CWP-834-1992**, this Court finds no merit in the same, and, the same is accordingly dismissed.

24. No order as to costs.

25. Since the main case(s) itself have been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

29.08.2023

kavneet singh

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