

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

CWP-6522-1990 (O&M)
Reserved on: 23.08.2023
Date of decision: 29.08.2023

DHARAM PAUL AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

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

Present: Mr. Adarsh Jain, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. The petitioners asked for the hereinafter reliefs to be granted to them.

“a) To issue a writ of certiorari for quashing the impugned notifications dated 21.4.1987 (Annexure P.1) and dated 20.4.1988 (Annexure P.3) issued under sections 4 and 6 respectively of the Land Acquisition Act, 1894, qua Killa Nos. mentioned of Rectangle No.43 situated within the revenue estate of Patti Jhambra, Shahbad, Tehsil Thanesar, District Kurukshetra.

b) To issue a writ of Mandamus against respondents NO.2 directing him to forbear from making the award qua the land of Killa Nos. mentioned above of Rectangle No.43 on the basis of the impugned notifications Annexures P.1 & P.3.

c) To issue any other appropriate writ, order or direction.”

2. The disputed lands are comprised in Killa No.5/2/2(0-12), 4/2(0-6), 4/4(0-2), 7/2(0-4), 7/4(0-6), 5/2/1(0-3), 4/3(0-5) of Rectangle No.43 situated within the revenue estate of Patti Jhambra, Shahbad, Tehsil Thanesar, District Kurukshetra.

3. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), became issued on 21.4.1987, and, was succeeded by a declaration made on 20.04.1988 under Section 6 of the Act of 1894. Moreover, in respect of the petition lands, an award became announced on 12.04.1990. The acquisition of interest in the petition lands by the petitioners ensued from a deed of conveyance becoming executed by them with the landowners concerned. The landowners concerned, had instituted CWP-5175-1990 before this Court. On the said writ petition a verdict was made, on 13.08.2013. In the said writ petition (supra), relief for quashing of the notification (supra), became espoused. Moreover, the said espousal related to land comprised in Killa No.5/2/2, 4/2, 4/4, 7/2, 7/4, 5/2/1, 4/2 of Rectangle No.43, which was spoken therein to be measuring 8 Kanals.

4. Through a decision made on 13.08.2013, upon the writ petition (supra), this Court had in paragraph 7 of the verdict, paragraph whereof becomes extracted hereinafter, thus borne in mind a policy decision taken by the government on 26.10.2007, and, on 24.01.2011, with mandates therein for release of buildings/structures which are found to have been constructed and regarding which a specific objection became taken by the landowners in terms of Section 5A of the Act of 1894. Therefore, in the said paragraph it became enunciated, that since in the writ petition (supra), the Authority deciding the objections raised by the landowners concerned,

existence of the said structures on the lands covered within notification (supra). Therefore, this Court took the view that the constructed portion/structures of the petitioners deserve to be exempted from acquisition. Consequently, to the above extent the notifications were quashed, and, set aside.

“(7). There is also no denial to the fact that pending this writ petition when the acquisition is sub judice, the State Government has come up with the policy decisions dated 26th October, 2007; and 24th January, 2011 for the release of building/structures which are found to have been constructed and regarding which a specific objection is taken by the land-owner under Section 5A of the Act. In the instant case, since the existence of part of the structures has been duly noticed by the respondents while deciding the objections under Section 5A, we are of the considered view that the constructed portion/structures of the petitioners deserve to be exempted from acquisition. The impugned notifications to the extent of acquisition of the residential houses/ structures raised by the petitioners are accordingly quashed.”

5. Necessarily, the above relief as became granted to the petitioners (supra), and as related to a Rectangle common to the instant writ petition but is confined only to the structures existing on the lands, thus in respect whereof the notifications (supra), became issued. Emphasizingly also the other vacant portion of the lands, which were covered within the notifications (supra), were not granted relief for theirs becoming released from acquisition.

6. Therefore, even if there is a rectangle similar or common *inter-se* the writ petitioners (supra), and, to the instant writ petition, but when the apposite common rectangle though measures 8 Kanals, but yet only the

constructed portion thereof was allowed to be released from acquisition, and, not the other open lands comprised within the said rectangle common to both the earlier, and, the instant writ petition.

7. The further sequel thereof, is that, the open lands comprised in the relevant rectangle common to both writ petitions, thus becomes open for being put to acquisition.

8. Apparently, the present petitioners did not join the array of petitioners in the writ petition (supra). Therefore, when apart from the constructed portion existing, upon the rectangle common to the writ petition (supra), and, to the instant writ petition rather became solitarily exempted from acquisition. In sequel, as afore stated in respect of open lands comprised in the apposite common rectangle were declared to be open to acquisition to further proceedings for acquisition becoming embarked. Resultantly, in the wake of the above, besides the petitioners not joining the array of petitioners in the petition (supra), as such, are estopped from canvassing before this Court, that the open lands comprised in the said common rectangle, which were made subject to further acquisition proceedings in respect thereof being drawn, rather, as such be permitted to lapse. Importantly, the above *plea* also cannot become canvassed, given thereupon, the binding, and, conclusive verdict, as became recorded by this Court, on writ petition (supra), and, which assigned to the respondents, to yet proceed with the drawings of a further proceedings for acquisition in respect of the open lands, thus within the said apposite common rectangle rather would become untenably reviewed or would become untenably scuttled.

9. It appears that the present petitioners did not join the array of petitioners in writ petition (supra), as they had acquired title to the writ

lands post the making of the notifications (supra). The execution of the sale deed in the above phase by the present petitioners with the landowners concerned, is but tainted. The reason being but simple that on launching of proceedings for acquisition through issuance of a notification under Section 4 of the Act of 1894, and, followed by a declaration under Section 6 of the Act of 1894, thereupon there is complete divestment of right, title and interest over the disputed lands, in the landowners, rather concomitantly there is complete investment of right, title and interest over the disputed lands in the Acquiring Authority concerned.

10. In sequel, the present petitioners have no *locus standi* to make any challenge to the makings of the said acquisition. Nonetheless, if they have acquired through the relevant sale deed, lawful title to the structures in respect whereof, this Court in judgment (supra), had granted relief to the petitioners therein, *qua* said structures being released from acquisition, thereupon to the extent (supra), the sale deed would be valid.

11. Consequently, this Court finds no merit in the writ petition, and, is constrained to dismiss the same. Hence, the same is dismissed.

12. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

29.08.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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