

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

CWP-3636-2023

Date of Decision: 22.02.2023

Ajit Singh and another

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Ajay Vijarania, Advocate,
for the petitioners.

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

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the notifications dated 18.12.2008 and 17.12.2009 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short 'the Act') respectively vide which the land had been acquired for the development of Sector 9 Part and Sector 10 Part Dadri by Haryana Urban Development Authority (HUDA). The claim of the petitioners as such is that petitioner No.2 namely Vijay Pal was petitioner No.5 in the earlier round of litigation in *CWP No. 4480 of 2014, Satvir and others vs. State of Haryana and others*, alongwith his brother Rattan Singh who was arrayed as petitioner No.4 in the said writ petition. The said writ petition had been disposed of in terms of *CWP No. 23386 of 2011, Kuldeep Singh vs. State of Haryana and another* decided on 20.08.2013 (Annexure P-5), which in principle, had directed that a fresh survey should be done and land should be released where petitioners are owners in possession of plots measuring 250 square yards or less provided there is no public purpose which could be

achieved by acquiring these vacant plots except that it is not needed for public utility like road, green belt, sewerage etc. and the parties were directed to maintain *status quo*.

Apparently, an order was passed on 13.10.2014 by the Additional Director, Urban Estate, Panchkula (Haryana) wherein qua Rattan Singh, the petitioner was stated to be not the owner of the claimed land and no release of land was recommended in his case. The said order was also duly communicated both to Rattan Singh and Vijay Pal. No challenge was raised for the period of 9 years. Thereafter, notice under Section 18(1) of the Haryana Shehri Vikas Pradhikaran Act, 1977 (in short 'the HSVP Act') has been issued on 23.01.2023 (Annexure P-11) to both the petitioner No.1, who was never party in the earlier round of litigation and also to Rattan Singh and who is not a party in the present litigation.

A perusal of the said notice would go on to show that there was illegal encroachment on the HSVP land, the description of which was given and directions were issued to remove the same, otherwise the order under Section 18(2) of the HSVP Act would be passed on account of the unauthorized construction. Now, in the present writ petition, for the first time, the claim has now been raised on behalf of Ajit Singh that he is the owner of 1 kanal and 7 marlas of land situated in Killa No. 188/2, Plot No.15, Hadast No.147 and that he was never a litigant in the earlier round of litigation but claims protection on the said basis. Petitioner No.2 claims to be owner of 7 marlas of land on the basis of a sale deed dated 25.09.2000 and another 2 marlas of land gifted by his brother Rattan Singh vide gift deed dated 29.12.2000 in Killa No.167/23/4. It has further been mentioned that the

Collector, Hisar. The said objections have not been placed on record also. Apparently, an award had also been passed thereafter, on the basis of which, notice under the HSVP Act was issued since the land would be deemed to be vested in the State after passing of the Award and, therefore, the authorities have come to the conclusion that they are in unauthorized occupation. Nothing has been placed on record in the form of a sale deed, gift deed or revenue record to show that the petitioners are owners.

In such circumstances, we are of the considered opinion that the present litigation is misconceived. It is also admitted that the unauthorized buildings have been demolished on 30.01.2023 in pursuance of the notice.

Mr. Mittal, on instructions from Davinder Singh, Patwari, has rather confirmed the fact that the land was acquired in the earlier notification dated 22.02.2007 and followed up by the notification under Section 6 dated 22.02.2008 and the Award was passed on 18.01.2010 which was for the purpose of development of residential and recreational area of Sectors 8 & 9, Dadri. In the said notifications, the said killa numbers find mention and, therefore, even otherwise we are of the considered opinion that the writ petition has been filed on the basis of the wrong facts and wrong averments and is accordingly misconceived. The land had vested with the State on account of the award being passed on 18.01.2010 and in pursuance of the same, the State had become the owner and the petitioners' possession in the same was only as unauthorized occupants on the basis of which notices had been issued for vacation and for demolition of the unauthorized construction which has been duly done.

The State has, thus, acted in accordance with law and there is no

scope for interference in the present writ petition and the same is dismissed.

(G.S. SANDHAWALIA)
JUDGE

22.02.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No