

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

CWP-7339-2022 (O&M)
Reserved on: 22.09.2023
Date of decision:26.09.2023

GURDEEP AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Pradeep Parkash Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for respondents No.2 and 3-HSVP (Gurugram).

SURESHWAR THAKUR, J. (ORAL)

1. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act of 1894') became issued on 10.01.1983. The same became succeeded by a declaration made on 07.12.1983 under Section 6 of the Act of 1894. An award in terms of Section 11 of the Act of 1894 became rendered, on 21.09.1986.

2. The writ relief is confined to the respondents being directed to in terms of Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act,

2013, as became inserted therein through Haryana Act No.21 of 2018, thus release the landloser's estate from acquisition.

3. The prime reason for declining the above relief to the petitioners becomes sparked from the evident factum, that the present petitioners have not only received the compensation amount, but also from factum qua the landloser's estate being an integral component of the developmental activities being made thereon. Resultantly, thereby the writ reliefs cannot be claimed, rather the petitioners are completely estopped, from the above evident material existing on record, thus from staking any claim vis-a-vis the estates of the present petitioners, rather becoming exempted or becoming released from acquisition.

4. The above raised argument also becomes meritless, as a perusal of the reply on affidavit furnished to the writ petition declares, that the retention of the disputed lands, is essential as well as viable, as thereby the relevant public purpose would be furthered, and/or, may be completely facilitated. Since predominance is to be assigned to public purpose, than to individualistic selfish interests of a landloser concerned.

5. The claim as made in the instant petition for release of acquired lands of the landowners concerned, from acquisition is was earlier raised under Section 24(2) of the Act of 2013, and, the said claim is strived to be re-raised before this Court, given the said claim becoming earlier raised in CWP-8517-2015, and, becoming disposed of through an order made thereon, on 04.05.2015.

6. Conspicuously upon vesting of ownership over the acquired lands, in the respondent concerned, thus happening, on issuance(s) of notification(s) (supra), thereby when the State becomes absolute owner of the acquired lands. Resultantly on investment of complete or absolute

ownership over the acquired lands, in the respondent-State, thus makes it well empowered to within the ambit of the verdict rendered by Hon'ble Apex Court in the case of “*State of Kerala Vs. M.Bhaskaran Pillai*”, AIR 1997 SC 2703, to even make sales of the acquired lands through public auction. Thus, in the event of it being not utilized, the exercisings of the above power by an absolute owner, rather is tenable, as thereby the auction monies as become fetched by the State of Haryana, thus would also result in theirs subserving some other public purpose(s). Therefore, except in a very rare or exceptional circumstances, inasmuch as, upon occurrence of *vis major* or upon exorbitant sums of compensation monies being determined, thus making their liquidations, to cause an onerous burden to the State exchequer, thus, thereby the statutory parameters of un-essentiality or unviability of retention of the acquired lands, may become adopted by the State of Haryana. However, the above exceptions are not available on the records of this case.

7. Even otherwise, the relevant acquisition was made in the year 1986, and, though the above provisions became inserted in the Act of 2013, through Haryana Act No.21, made in the year 2018, and, though was made retrospectively applicable from the year 2014, but the benefit of the statutory provision (*supra*), cannot be availed at this belated stage. More so, when it has been declared in a verdict made by this Court in CWP-15175-2023, titled ‘*The Press Employees and Friends Co-operative Group Housing Society Ltd. V. State of Haryana and others*’ that the import of the above statutory parameters are extremely limited, and, confined to extreme emergent circumstances. Moreover, when it is also been spelt therein, that in case the acquired estate is an integral component of the developmental plan, and, is also an insegregable part of the public purpose, for which the

acquired lands are subjected to acquisition, thereby the above statutory parameters of unessentiality, and, unviability retention of the petition lands, thus are unavailable to become ably canvassed by the writ petitioners.

8. Moreover, the said relief as is planked, upon the policy (supra), the said relief cannot be granted to the petitioner, as the learned State counsel has in CWP-14077-2022, placed on record a communication addressed to the office of Advocate General, Haryana by the Financial Commissioner, Revenue and Addl. Chief Secretary to the Government of Haryana, Revenue and Disaster Management, wherein, there occurs a speaking that the said policy is under active consideration for its withdrawal being made.

9. Consequently, this Court finds no merit in the instant petition, and, the same is hereby dismissed with costs of Rs.50,000/- upon each of the petitioners to be forthwith deposited by the petitioners with the 'Punjab and Haryana High Court Bar Clerk's Association'.

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

(SURESHWAR THAKUR)
JUDGE

26.09.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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