

In the High Court of Punjab and Haryana at Chandigarh

**1. CWP No. 8972 of 2020 (O&M)
Reserved on : 04.12.2023
Date of Decision: 16.12.2023**

The Sirsa Adarsh Cooperative HousePetitioner
Building Society Limited

Versus

State of Haryana and othersRespondents

2. CWP No. 11543 of 2020 (O&M)

Gurdial Singh and othersPetitioners

Versus

State of Haryana and othersRespondents

4. CWP No. 10603 of 2020 (O&M)

Inderjeet KaurPetitioner

Versus

State of Haryana and othersRespondents

4. CWP No. 15717 of 2020 (O&M)

Ritesh MadanPetitioner

Versus

State of Haryana and othersRespondents

5. CWP No. 23994 of 2021 (O&M)

Krishna Gabha and othersPetitioners

Versus

State of Haryana and othersRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Sanjiv Gupta, Advocate
for the petitioner(s) (in CWP No. 8972-2020, 11543-2020,
10603-2020 and 23994-2021.

Mr. Ajay Gupta, Advocate
for the petitioner(s) (in CWP-15717-2020).

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

Mr. Deepak Balyan, Advocate with
Mr. Vicky Chauhan, Advocate
for the respondent-HSVP (in CWP-15717-2020).

SURESHWAR THAKUR, J.

1. Since all the writ petitions (supra) relate to a common cause of action, and, also relate to common acquisition notification(s), therefore all the writ petitions (supra) are amenable to be decided through a common verdict.

2. Through the instant petitions, the petitioners have challenged the order dated 21.1.2020, passed by the learned Collector concerned, vide which the claim raised by them for theirs becoming granted the benefit of Section 48 of the Land Acquisition Act, 1894 (for short ‘the Act of 1894’) became declined.

3. Moreover, the petitioners also ask for a mandamus being made, upon the Collector concerned, to refer to the learned Reference Court, thus their petitions seeking enhancement of compensation, as became determined viz-a-viz the acquired lands, thus by the Collector concerned.

4. There is no dispute amongst the contesting litigants, that the notification, whereby the petition lands became subjected to acquisition, became de-notified vide notification dated 10.1.2019.

5. The reason for making of the above notification, whereby the earlier issued notification became thus de-notified, is embedded in the factum, that since an exorbitant sum of compensation became determined by

the learned Reference Court in the petitions transmitted to it, by the learned Collector concerned. Since there is no challenge to the said notification, whereby the earlier launched acquisition proceedings rather became de-notified, thus when in terms of the verdict pronounced by this Court in CWP-15174-2023, titled 'The Press Employees and Friends Co-operative Group Housing Society Ltd. V. State of Haryana and others' whereby the apposite exception to the impermissibility of releases being made in terms of Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'), as became incorporated therein, through an amendment being made vide Haryana Act No. 21 of 2018, thus becoming grooved in the financial unviability of the acquired lands, but thus becomes as such set-forth in the reply on affidavit. Resultantly, thereby the notification de-notifying the earlier launched acquisition proceedings, thus is valid.

6. In the face of the issuance of the above unchallenged notification, this Court is bound to determine the validity of the impugned order dated 21.1.2020, whereby the Collector concerned, adjourned sine die the petitions, as become cast before him, under Section 48 of the Act of 1894, thus on the ground that the validity of the provisions of Section 101 of the Act of 2013, remained yet undetermined by this Court. Therefore, the validity of the said made order is to be tested.

7. Apparently, the above assigned reason by the learned Collector concerned, through his making the impugned order, rather is completely pretextual. The reason for making the above conclusion becomes sparked from the trite factum, that there is no claim laid before this Court by the

petitioners, that they are entitled to claim releases or exemptions from

acquisitions of their acquired lands, thus in terms of provisions (supra), as become engrafted in Section 101 of the Act of 2013. If so especially when the writ claims are confined to a challenge being made to the impugned order, whereons, a decision but on the flimsy pretext (supra) rather became deferred, besides when apparently the claim laid before the Collector concerned, was but anchored upon the provisions of Section 48 as carried in the Act of 1894. Moreover when, through the notification (supra), the earlier launched acquisitions became withdrawn or the apposite acquisition notification thus became de-notified. Resultantly, the mandate of Section 48 of the Act of 1894, as became resorted to by the present petitioners, does squarely appertain to a situation where the Government withdraws from acquisition. Furthermore, when sub-Section (2) of Section 48 of the Act of 1894, speaks that when said withdrawal from acquisition thus takes place, thereupon the Collector becoming enjoined to determine the amount of compensation rather owing to damage suffered by the owner in consequence of the notice or in consequence of any proceedings drawn thereunders, besides, becomes enjoined to pay such determined compensation, to the person interested together with all costs, reasonably incurred by him in the prosecution of the proceedings under the Act of 1894, as relates to the said denotified lands. The provisions of Section 48 of the Act of 1894, thus making the above speakings, are extracted hereinafter.

“48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of

compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section."

8. In consequence, after withdrawal from the acquisition taking place, through an unchallenged notification, becoming issued by the respondent concerned, whereby the earlier issued notification bringing the writ lands to acquisition rather became de-notified, thereby the recourse, as made to the provisions of Section 48 of the Act of 1894, appears to be a well made recourse, and, on such petitions, a decision in accordance with law, was required to be made by the Collector concerned. However, the Collector concerned, on the flimsy pretext (supra), besides when the said pretext relates only to claims for releases from acquisition, and, does not relate to the undisputed fact herein, qua the uncontested withdrawal from acquisition taking place rather in the manner (supra), rather refraining from making an adjudication, upon, the claims relating to damages, being caused to the petitioners, thereby thus has refused to exercise the jurisdiction, as became lawfully vested in him. The said declining by the Collector concerned, thus to exercise jurisdiction, on a petition filed under Section 48 of the Act of 1894, by the petitioners, thus tantamounts to a gross illegality, and, impropriety becoming committed by him. Consequently, the said committed illegality or impropriety by the Collector concerned, thus on the above flimsy pretext, is required to be undone.

Final order

Consequently, all the petitions are allowed. The impugned

order is quashed, and, set aside. The learned Collector concerned, is directed to, within four months from today, but after hearing all the affected persons concerned, thus assess the compensation amount, in terms of the provisions of Section 48 of the Act of 1894, to all the land losers concerned, and, also to any person interested in the lands in respect whereof withdrawals from acquisitions took place.

10. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 16th, 2023
Gurpreet

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