

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(I) CWP No. 12432 of 2023
Reserved on: 21.09.2023
Date of decision: 20.10.2023

ANIL SURI & ANOTHER

-PETITIONERS

V/S

STATE OF HARYANA & ORS.

-RESPONDENTS

(II) CWP-14077-2022 (O&M)

RAMESHWAR

-PETITIONER

V/S

STATE OF HARYANA & ORS.

-RESPONDENTS

(III) CWP-10453-2023

OM PARKASH

-PETITIONER

V/S

STATE OF HARYANA & ORS.

-RESPONDENTS

(IV) CWP-2357-2023 (O&M)

MITTARPAL AND OTHERS

-PETITIONERS

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(V) CWP-14987-2023

DIPAK NANDAL AND ANR.

-PETITIONERS

V/S

STATE OF HARYANA & ORS.

-RESPONDENTS

(VI) CWP-12985-2023

JASBIR KAUR AND ORS.

-PETITIONERS

V/S

STATE OF HARYANA THROUGH ITS SECY.,
GOVT OF HARYANA -RESPONDENTS

(VII) CWP-10352-2022

M/S S.S. GROUP LTD. AND ORS -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(VIII)CWP-13071-2022

PANKAJ PANDEY AND ORS. -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(IX) CWP-19688-2022

CHANDER PAL -PETITIONER

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(X) CWP-276-2022

AVTAR SINGH AND ORS -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

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

Present : Mr. Shailendra Jain, Senior Advocate with
Mr. Nitin Jain, Advocate and
Ms. Navneet Kaur, Advocate
for the petitioners (in CWP-12432-2023).

Mr. Sandeep Sharma, Advocate
for the petitioner(s) (in CWP-14077-2022 & CWP-2357-2023).

Mr. Vipin Pal Yadav, Advocate
for the petitioner (in CWP-10453-2023).

Mrs. Peeyushi Diwan Jain, Advocate
for the petitioners (in CWP-14987-2023).

Mr. Vaneet Soni, Advocate and
Mr. Gyan Parkash Saini, Advocate
for the petitioners (in CWP-12985-2023).

Ms. Ridhi Bansal, Advocate and
Ms. Sidhi Bansal, Advocate
for the petitioners (in CWP-10352-2022, CWP-13071-2022 &
CWP-276-2022).

Mr. Sakal Sikri, Advocate
for the petitioner (in CWP-19688-2022).

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate
Mr. Shivam Garg, Advocate and
Mr. Jugam Arora, Advocate
for the respondent(s)-HSVP
(in all cases except CWP-10352-2022).

Mr. Deepak Sabharwal, Advocate
for the respondent(s)-HSVP (in CWP-10352-2022).

Mr. Vikram Singh, Advocate
for the respondents No.6 to 12 (in CWP-14077-2022).

SURESHWAR THAKUR, J.

1. Since the claims made in all these writ petitions, besides the grounds urged for grant of said claims are alike, therefore, all these writ petitions are amenable for being decided through a common verdict.
2. To be precise, 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'), and, the policy dated 14.09.2018, titled as "The Policy for Return of Un-utilized Land", form the

backbone of the claims, as raised in all these writ petitions. Therefore, before we proceed to make the required deliberation upon the issues raised in these writ petitions and thereupon, pen down our resultant opinion for adjudication(s) thereof(s), it is deemed imperative to initially extract the reliefs claimed therein, besides the factual matrix of the respective writ petitions.

RELIEF(S) SOUGHT (IN CWP-12432-2023)

3. The petitioners have invoked the writ jurisdiction of this Court, whereby, they yearn for the making of a mandamus upon the respondent(s) concerned, to de-notify the acquired petition lands, in view of Section 101-A of the Act of 2013.

4. The relief (supra) relating to release(s) of the petition lands, from acquisition, is primarily founded upon “unviability” and “non-essentiality”, of the petition lands, thus for facilitating the relevant public purpose, as the same remain yet unutilized for the purpose for which they were acquired, thereby, consequently they warrant theirs being released, as stipulated in Section 101-A of the Act of 2013. The further ground, as relates to the acquired lands becoming “unviable” and “non-essential”, is based upon the petition lands being sandwiched between the released lands.

FACTUAL MATRIX (IN CWP-12432-2023)

5. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential-cum-commercial area at Gurugram. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act of 1894’), on

13.11.1981. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 24.01.1984. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.1 was announced on 02.05.1986. Resultantly, the possession of the acquired petition lands was assumed, on 02.05.1986, through the drawing of a Rapat Roznamcha bearing No.422.

6. Moreover, the factum qua the entire compensation amount being tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the reply furnished to the writ petition by Dr. Balpreet Singh, Administrator, HSVP, Gurugram. Nonetheless, what further emanates from the reply (supra), is that a supplementary award bearing No.4 dated 13.05.1988, thus became announced qua structure(s) existing on the petition lands, inasmuch as, qua two rooms, two stores with courtyard, and, qua two rooms without roof. However, the petitioners deliberately chose not to receive the awarded compensation amount, which is yet lying with the learned Collector concerned for disbursement.

7. It would be worthy to record here that the instant writ petition constitutes the second round of litigation, as prior to the announcement of the award(s) (supra), the petitioner No.1 had accessed this Court, through filing CWP-1553-1984, titled as “Anil Suri V/s State of Haryana and others”, thereby assailing the notification and declaration (supra). The writ petition (supra), along with certain other writ petitions, was allowed by a Coordinate Bench of this Court, through a common verdict drawn on 20.05.2014. The relevant extract of the affirmative verdict (supra) is reproduced as under:-

“[6] The respondents have admittedly not taken possession of the acquired land in the instant cases, of course, due to stay orders passed by this Court or by Hon'ble Supreme Court. The award was passed more than five years before 01.01.2014 i.e., the date when the 2013 Act came into force. The petitioners have not received any compensation also till date. The principle of inclusion of pendente lite period expounded in Shiv Raj and others' case (supra) thus is fully applicable in the instant case(s).

[7] The concept of pendente lite having been explained by the Hon'ble Supreme Court, the acquisition of petitioners' land is declared to have lapsed. Consequently, the writ petitions are allowed; the impugned notifications dated 13.11.1981 and 24.01.1984 and the awards dated 06.01.1986, 02.05.1986, 12.05.1986 and 15.11.1984 qua the petitioners are set aside. The respondents, however, shall be at liberty re-acquire the subject property in accordance with law and provisions of 2013 Act.

[8] Having held that, we cannot be oblivious of the fact that the land was acquired for the regulated development of Gurgaon City. As a consequence of the lapse of acquisition, if the petitioners succeed in changing the nature of land or if they create third party rights, it is likely to be detrimental to the 'public interest' as several basic amenities like roads, sewerage or park etc. would also be adversely affected. We, thus, restrain the petitioners from alienating and/or changing the nature of their released land for a period of one year from the date of receipt of certified copy of the order. No construction shall be raised by the petitioners on their respective sites and the District Administration shall ensure that nature of the land is not changed by anyone.”

8. The order (supra) caused grievance to the respondent-State and led it to approach the Hon'ble Supreme Court, through filing SLP(C) No.10190-10200/2017, titled as “State of Haryana V/s Rekha Mathur and others”. The SLP(C) (supra) was allowed by the Hon'ble Apex Court, through drawing an order on 20.02.2018, rather favourable to the State of Haryana, thereby holding the challenged verdict (supra) of this Court to be

unsustainable, in view of the law laid down in Indore Development Authority vs. Shailendra (Dead) Through its LRs. and ors.”. In the SLP(C) (supra), the Hon’ble Supreme Court had extensively dealt with the plea of discrimination, as raised therein by the petitioners, and, held that the plea of discrimination in respect of left out areas cannot be termed to be justified on fact situation. The relevant portion of the observations carried in the verdict (supra) of the Hon’ble Supreme Court is extracted hereunder:-

“...Coming to the decision of M/s Usha Stud and Agricultural Farms Pvt. Ltd. And Ors. vs. State of Haryana and Ors. relied upon by the learned senior counsel, this Court had noted the facts that it has been opined that it was residential zone land which may be acquired except the portion which was residential buildings that had been constructed. Several declarations were issued under Section 6. In that context, this Court has observed that decision taken in that case was not in accordance with the Section 5A (2) and the refusal to release the land was not appropriate. Inquiry under Section 5A was directed to be held again and then fresh decision was directed to be taken. However, notification under Section 4 of the Land Acquisition Act, 1894 was not quashed.

Another decision of this Court has been relied upon in Hari Ram Vs. State of Haryana and Ors. (supra). In that the policy dated 26.10.2007 was taken into consideration. Different orders were passed and policy was not equally applied. Admittedly, there was no such policy at the time when the acquisition had taken place way back in the Eighties. The facts of the case were totally different.

It is apparent from the stand taken by the respondent that poultry, areas and certain other areas were required for road, public amenities, it was not possible to leave them out and was necessary to be acquired for planned development and public amenities as most of the area was abutting Delhi-Gurgaon Road. It is clear that Court can sit in the appeal on merits of the decision rendered under Section 5A. It is not ordinarily open to Court to substitute the opinion as to planned development and requirement of particular area. Inquiry and

the material placed on record clearly indicate that mind had been duly applied and decision taken not to exclude the area could not be said to be illegal or arbitrary or said to suffer from any illegality. All the area cannot be left out, as whatever is required for development had to be acquired including constructed area. The plea of discrimination with respect to areas left out cannot be said to be justified on fact situation. The requirement of planned development is to be judged by the concerned authority and appropriate Government and they have applied their mind in accordance with law by assigning the reasons and enough materials had been placed on record by them to support their decision.

Thus, in the facts and circumstances of the case, no case to entertain plea of discrimination is made out. Thus, we find that no case for interference is made out on the ground which have been urged by the land owners.

The appeals are allowed. The impugned order is set aside. Writ petitions filed before the High Court are dismissed...”

Non-availability to the petitioners of the plea of discrimination

9. The above extracted observations make vivid postulations, that the plea of discrimination, as alleged by the petitioners, did not find favour uptill the Hon’ble Supreme Court, thereby the dis-affirmative findings, as become recorded thereon, thus attained finality. Consequently, the above ground becomes estopped to be re-raised in the instant writ petition.

10. Moreover, the foundation of the rejection of the above plea, became grooved in the trite factum, that the inclusion or exclusion of lands from acquisition, besides inclusion or exclusion thereof in the layout plans, thus falls within the domain of the executive. Therefore, it became concluded, that the exempted tracts of land, or, the acquired tracts of land, in respect whereof exemption became claimed, if respectively became founded upon an objective premise but rested on the layout plans concerned, thereupon, the

inclusion of the disputed lands in the said layout plans, for thereby the apposite public purpose becoming facilitated, but cannot be subjected to judicial review. Therefore, but obviously, the claim for release(s) of acquired lands, through invoking the provisions of Section 101-A of the Act of 2013, but also is a misendeavour.

RELIEF(S) SOUGHT (IN CWP-14077-2022)

11. The petitioner has invoked the writ jurisdiction of this Court, thus craving for the making of a mandamus upon the respondent(s) concerned, to release the acquired petition lands, in view of the policy dated 14.09.2018, titled as “The Policy for Return of Un-utilized Land”.

12. The relief (supra) relating, to release(s) of the petition lands, from acquisition, is primarily founded upon “unviability” and “non-essentiality”, of the petition lands, thus for facilitating the relevant public purpose, as despite elapsing of 20 years, since the lawful termination of the relevant acquisition proceedings, thus the petition lands remaining yet unutilized for the purpose for which they were acquired, thereby, consequently they warrant theirs being released, in terms of the policy (supra).

FACTUAL MATRIX (IN CWP-12432-2023)

13. The petition lands were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential, commercial and institutional area Sector 57, Gurugram. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 24.08.2000. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 22.08.2001. Ultimately, to

satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.10 was announced on 21.07.2003. Resultantly, the possession of the acquired lands was assumed.

14. It would be significant to record here that the instant writ petition constitutes the second round of litigation, as the petitioner had earlier accessed this Court, through filing CWP-22219-2018, thereby invoking the lapsing provisions, as enshrined in Section 24(2) of the Act of 2013, qua the acquisition proceedings (supra). However, the petitioner chose to withdraw the writ petition (supra) with liberty to approach the appropriate authority under Section 101-A of the Act of 2013. Consequently, through an order made on 14.02.2022 by this Court, the writ petition (supra) was ordered to be dismissed as withdrawn, however, with liberty (supra). Thereafter, availing the liberty (supra), the petitioner filed an application, under Section 101-A of the Act of 2013, before the authority concerned seeking release of his lands. However, the petitioner alleges that no decision has been made on the said application.

15. Moreover, finding the petitioner to be in unauthorized occupation of the acquired petition lands, thereby the petitioner was served with a notice dated 29.06.2022, thus asking the petitioner to vacate the acquired petition lands, else the Department concerned shall take necessary action for removal of unauthorized occupation.

RELIEF(S) SOUGHT (IN CWP-10453-2023)

16. The petitioner has sought the quashing of a public notice (Annexure P-10), whereby, the respondent No.3 has directed the petitioner to vacate his unauthorized occupation from the acquired petition lands. The

further relief(s), as sought by the petitioner, relates to the making of a mandamus upon the respondent(s) concerned to release from acquisition the area meant for green belt and whereon exists 12 shops of the petitioner for past 20 years.

17. The reliefs (supra) are agitated on the ground that 12 shops of 'A' class construction and belonging to the petitioner, stood made, on the petition lands, even prior to the commencement of the relevant acquisition proceedings. The further grounds for grant of reliefs (supra) relate to neither any proper survey being conducted at the time of commencement of the acquisition proceedings, nor the lands surrounding the petition lands being brought to acquisition. It is further alleged that since the petitioner is in physical possession of the acquired petition lands, therefore, since the petition lands remain yet unutilized for the purpose for which they were acquired, consequently they are amenable for being released, by dint of Section 101-A of the Act of 2013. Discrimination is also alleged to be one of the grounds for grant of the reliefs (supra), as the petitioner alleges that the lands of other similarly situated estate-holders rather being released from acquisition.

FACTUAL MATRIX (IN CWP-10453-2023)

18. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential, commercial and institutional area Sector 48, Gurugram. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 27.11.2003. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of

1894, on 24.11.2004. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.19 was announced on 22.11.2006. Resultantly, the possession of the acquired petition lands was assumed, on 22.11.2006, through the drawing of a Rapat Roznamcha bearing No.170.

19. Moreover, the factum qua the entire compensation amount being tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the written signed synopsis, as supplied by the learned State counsel. It further emanates from the synopsis (supra) that the petitioners deliberately chose not to receive the awarded compensation amount, which is yet lying with the learned Collector concerned for disbursement.

20. It would be significant to record here that the instant writ petition forms the second round of litigation, as the petitioner had earlier accessed this Court, through filing CWP-3500-2006, thereby seeking quashing of the notification and declaration (supra). However, the writ petition (supra) was dismissed by this Court, through an order made on 06.08.2008.

21. The effect of inference(s) from the dismissal order (supra) becoming made, upon, the writ petition (supra), is that, thereby the petitioner becomes estopped to, on the plea of purported discrimination being meted qua his acquired lands by the acquiring authority, thus throw any challenge to the lawfully terminated acquisition proceedings.

RELIEF(S) SOUGHT (IN CWP-2357-2023)

22. The petitioners have invoked the writ jurisdiction of this Court,

whereby, they yearn for the making of a mandamus upon the respondent(s) concerned to consider their application qua release of the acquired petition lands, in view of the policy dated 14.09.2018, titled as “The Policy for Return of Un-utilized Land”.

23. The relief (supra) relating, to release(s) of the petition lands, from acquisition, is primarily founded upon “unviability” and “non-essentiality” of the petition lands, thus for facilitating the relevant public purpose, as the same remain yet unutilized for the purpose for which they were acquired, thereby, consequently they warrant theirs being released, as stipulated in the policy (supra).

FACTUAL MATRIX (IN CWP-2357-2023)

24. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as Sector Roads, Sector 81 to 95 at Gurugram. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 09.12.2011. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 08.08.2012. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.73 was announced on 06.06.2013. Resultantly, the possession of the acquired petition lands was assumed, on 06.06.2013, through the drawing of a Rapat Roznamcha bearing No.914.

25. Though the petitioners have claimed in the writ petition, that they

have not received any compensation amount, however, the factum qua the entire compensation amount being tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the reply furnished to the writ petition by Mr. Hitesh Kumar Meena, Administrator, HSVP, Gurugram. To be precise, the details regarding receipt of compensation by the present petitioners also emanate from the reply (supra), which is as follows: (i) the petitioners No.1 and 2 have respectively received compensation amount of Rs.3,65,942/-, respectively vide Cheque No.956393 and 956392 dated 21.08.2013; (ii) the petitioners No.3 and 4 have respectively received compensation amount of Rs.3,65,943/-, respectively vide Cheque No.956391 and 956395 dated 21.08.2013; (iii) the petitioner No.5 has received compensation amount of Rs.7,69,631/- vide Cheque No.074336 dated 03.04.2015; (iv) the petitioner No.6 has received compensation amount of Rs.1,21,981/- vide Cheque No.956396 dated 21.08.2013; (v) the petitioner No.7 has received compensation amount of Rs.3,65,941/- vide Cheque No.956390 dated 16.08.2013. Not only this, the reply (supra) makes revelations qua pendency of reference petition(s), as instituted by the petitioners, before the learned Reference Court concerned, seeking enhancement of the awarded compensation amount.

RELIEF(S) SOUGHT (IN CWP-14987-2023)

26. The petitioners have invoked the writ jurisdiction of this Court, whereby, they yearn for the making of a mandamus upon the respondent(s) concerned, to de-notify the acquired petition lands, in view of Section 101-A of the Act of 2013 and the policy dated 14.09.2018.

27. The relief (supra) relating, to release(s) of the petition lands, from

acquisition, is primarily founded upon “unviability” and “non-essentiality”, of the petition lands, thus for facilitating the relevant public purpose, as a residential house allegedly exists on the petition lands, which is in possession of the petitioners. Therefore, since the petition lands remain yet unutilized for the purpose for which they were acquired, consequently they are amenable for being de-notified, in terms of Section 101-A of the Act of 2013.

FACTUAL MATRIX (IN CWP-14987-2023)

28. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential/commercial Sector 27-28, Rohtak. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act of 1894’), on 11.04.2002. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 08.04.2003. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.1 was announced on 06.04.2005. Resultantly, the possession of the acquired petition lands was assumed, on 06.04.2005, through the drawing of a Rapat Roznamcha bearing No.418.

29. Moreover, the factum qua the entire compensation amount being tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the reply furnished to the writ petition by Ms. Preeti, IAS, Administrator, HSVP, Rohtak. However, the petitioners deliberately chose not to receive the awarded compensation amount, which is

yet lying with the learned Collector concerned for disbursement.

30. It would be significant to record here that the petitioners had earlier accessed this Court, through filing CWP-11775-2017, thereby invoking the lapsing provisions, as enshrined in Section 24(2) of the Act of 2013, qua the acquisition proceedings (supra). However, the writ petition (supra) was dismissed by this Court vide order dated 12.10.2020. Being aggrieved by the dismissal order (supra), the petitioners approached the Hon'ble Supreme Court by filing SLP(C) No.15797 of 2020, however, the said motion reaped no fruits, as the SLP (supra) was dismissed vide order dated 29.09.2021. Though a dis-affirmative order was made on the SLP (supra), however, liberty was reserved to the petitioners to make a representation, in terms of Section 101-A of the Act of 2013, which was directed to be expeditiously decided in accordance with the exposition carried in Civil Appeal Nos.2714-2715 of 2021, decided on 15.07.2021.

31. The dismissal of the SLP (supra) results in an inference, that since the apposite SLP, whereon, the said dismissal order was made, thus claiming relief within the purview of Section 24(2) of the Act of 2013, thereby the said plea becomes estopped to be raised before this Court. Moreover, any plea of discrimination, if becomes raised in the writ petition, is impermissible to be raised herein, as the same, if raised earlier, became declined, and/or, if the same remained unraised therein, the factum of it being unraised therein, thereby estopping the petitioner to, within the estopping principle incorporated in Order II Rule 2 CPC, thus re-espouse the same.

32. Availing the liberty (supra), the petitioners moved a representation dated 29.12.2021, as cast under Section 101-A of the Act of

2013, before the authority concerned. However, the petitioners allege that no action has yet been taken on the representation (supra), rather is left unresponded.

RELIEF(S) SOUGHT (IN CWP-12985-2023)

33. The petitioners have invoked the writ jurisdiction of this Court, whereby, they yearn for the making of a mandamus upon the respondent(s) concerned to make a speaking decision on their application dated 08.08.2022 qua release(s) of the acquired petition lands, in terms of Section 101-A of the Act of 2013.

34. The relief (supra) relating, to release(s) of the petition lands, from acquisition, is primarily founded upon “unviability” and “non-essentiality”, of the petition lands, thus for facilitating the relevant public purpose, as despite the relevant acquisition proceedings lawfully terminating in the year 1992, the petition lands remain yet unutilized for the purpose for which they were acquired, thereby, consequently they warrant theirs being released, in view of Section 101-A of the Act of 2013. Moreover, the existence of a Dera over the acquired petition lands is also cited to be rendering the petition lands “unviable” and “non-essential” for accomplishment of any public purpose.

FACTUAL MATRIX (IN CWP-12985-2023)

35. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential and commercial purposes for Sector 17, Urban Estate, Panipat. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 23.02.1989. The said preliminary

notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 22.02.1990. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award was announced on 21.02.1992. Resultantly, the possession of the acquired petition lands was assumed by the acquiring authority concerned.

36. It would be relevant to note here that the petitioners had earlier accessed this Court through filing CWP-15002-1996, thereby challenging the acquisition proceedings (supra). However, through an order drawn on 30.05.2022, the writ petition (supra) was ordered to be dismissed as withdrawn with liberty to the petitioners to make a representation to the authority concerned, seeking release of their acquired lands, in view of Section 101-A of the Act of 2013.

37. The inference(s) drawn from the above dismissal order, leaving but the above liberty to the petitioners, is that, the plea of discrimination, if becomes raised in the writ petition, is impermissible to be raised herein, as the same, if raised earlier, became declined, and/or, if the same remained unraised therein, thereby the factum of it being unraised therein, rather estopping the petitioners to, within the estopping principle incorporated in Order II Rule 2 CPC, thus re-espouse the same.

RELIEF(S) SOUGHT (IN CWP-10352-2022)

38. The petitioners have invoked the writ jurisdiction of this Court, whereby, they yearn for the making of a mandamus upon the respondent(s) concerned to consider their proposal for exchange of land, on the premise, that the State Government may after retaining the land required for 60 meter road,

free of costs, de-notify the remaining lands of the petitioners, on the ground of its becoming “unviable” and “non-essential” for achieving any public purpose, as on both sides of the road, lands have been released from acquisition. Therefore, by dint of Section 101-A of the Act of 2013, and, the policy dated 14.09.2018, the petition lands warrant theirs being released from acquisition.

39. The further relief, as asked for in the instant writ petition, relates to quashing of the order dated 15.09.2021 (Annexure P-7), whereby, the Principal Secretary to Government of Haryana, rejected the representation of the petitioners seeking release of their lands.

FACTUAL MATRIX (IN CWP-10352-2022)

40. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization for Sector Master Road, Sector 48, Gurugram. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 06.12.2001. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 07.12.1990. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award bearing No.28 was announced on 26.03.2003. Resultantly, the possession of the acquired petition lands was assumed, on 12.04.2022, by the acquiring authority concerned, through the drawing of a Rapat bearing No.439.

41. It would be pertinent to record here that after announcement of the award, the petitioners submitted an application, on 13.11.2003, to the

Director, Town and Country Planning, Haryana, thereby seeking grant of licence for development of commercial colony at Sector 48, Gurugram. However, the Director, Town and Country Planning, Haryana, declined to grant the asked for licence, on the ground, that the site concerned falls in residential Sector 48 of the Final Development Plan concerned.

42. Thereafter, the petitioners instituted CWP-16934-2005 before this Court, which was disposed of vide order dated 16.07.2005, thereby reserving liberty in the petitioners to make a representation before the High Powered Committee concerned. Accordingly, the petitioners made a representation, however, it was dismissed by the High Powered Committee vide order dated 11.06.2007.

43. Feeling yet unsatisfied, the petitioners again approached this Court by filing CWP-11909-2007, thereby assailing the order (supra) passed by the High Powered Committee. The writ petition (supra) was disposed of vide order dated 21.10.2013, thereby directing the State of Haryana/Competent Authority to re-consider the claim of the petitioners in accordance with the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1975 and the Government policies on the relevant subject.

44. Accordingly, the matter was re-considered by the authority(ies) concerned, however, through an order made on 19.07.2014, the request of the petitioners to release their acquired lands was again rejected. The efforts of the petitioners did not pause here, as they again filed CWP-17094-2014, thereby challenging the acquisition proceedings (supra), by invoking the lapsing provisions, as carried in Section 24(2) of the Act of 2013. However, the writ

petition (supra) was ordered to be dismissed as withdrawn, on 01.12.2020, with liberty to the petitioners to file objections, if any, in case any cause of action arises or survives.

45. However, the Principal Secretary to Government of Haryana, vide order dated 15.09.2021, again rejected the representation of the petitioners for release of land.

46. The dismissal of the writ petition (supra) results in an inference, that since the apposite writ petition, whereon, the said dismissal order was made, thus claiming relief within the purview of Section 24(2) of the Act of 2013, thereby the said plea becomes estopped to be raised before this Court. Moreover, any plea of discrimination, if becomes raised in the writ petition, is impermissible to be raised herein, as the same, if raised earlier, became declined, and/or, if the same remained unraised therein, thereby the factum of it being unraised therein, rather estopping the petitioner to, within the estopping principle incorporated in Order II Rule 2 CPC, thus re-espouse the same.

RELIEF(S) SOUGHT (IN CWP-13071-2022)

47. The petitioners have sought quashing of decision dated 23.06.2021 (Annexure P-18), whereby, the application of the petitioners seeking release(s) of their acquired lands, in terms of Section 101-A of the Act of 2013, has been rejected. Furthermore, the petitioners have also sought parity with one Bimla Devi, whose proposal for exchange of land has been acceded to, through Annexure P-20.

48. The petitioners have sought the relief(s) (supra), on the premise, that since the petition lands have become sandwiched between the released lands, therefore, they have become “unviable” and “non-essential” for

accomplishing any apposite public purpose and resultantly, are amenable for being released by virtue of Section 101-A of the Act of 2013, and, the policy dated 14.09.2018.

FACTUAL MATRIX (IN CWP-13071-2022)

49. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization for Commercial Sector 2, Kurukshetra. The proceedings for acquisition of the petition lands commenced, through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 24.03.1992. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 23.03.1993. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award was announced on 22.03.1995. Resultantly, the possession of the acquired petition lands was assumed by the acquiring authority concerned.

RELIEF(S) SOUGHT (IN CWP-19688-2022)

50. The petitioner has sought quashing of the order dated 28.11.2018 (Annexure P-9), on the premise, that the petitioner is ready to give such portion of land, free of costs, which is required for construction of road and other public utility services, as prescribed in the approved layout plan, if the constructed portion along with open area is released from acquisition, in terms of the release order dated 03.02.2021, wherethrough, similar benefit has been extended to other landowners. The petitioner has claimed release(s) of his acquired lands on the ground of theirs becoming “unviable” and “non-

essential” for achieving any public purpose, thus, by dint of Section 101-A of the Act of 2013, and, by virtue of the policy dated 14.09.2018, whereby, the petition lands warrant theirs being released from acquisition.

51. Furthermore, the petitioner has sought making of a mandamus upon the respondent(s) concerned to consider his proposal for exchange of land, as carried in representation dated 18.07.2022, in parity with one Bimla Devi, whose proposal for exchange of land has been acceded to. The petitioner asks for reliefs (supra) *inter alia* on the premise that out of total 13 Kanals 4 Marlas, 2 Kanals have not been acquired and the identification of acquired/un-acquired land is yet to be made.

FACTUAL MATRIX (IN CWP-19688-2022)

52. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential and commercial Sector 75 and 80, Faridabad. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 01.05.2006. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 30.04.2007. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award was announced on 24.04.2009. Resultantly, the possession of the acquired petition lands was assumed, on 24.04.2009, by the acquiring authority concerned through the drawing of a Rapat Roznamcha bearing No.465.

53. Moreover, the factum qua the compensation amount being

tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the reply furnished to the writ petition by Dr. Garima Mittal, IAS, Administrator, HSVP, Faridabad.

54. It would be significant to record here that the notification and declaration (supra) were assailed by the petitioner through filing CWP-11749-2008 before this Court, however, the same was dismissed vide order dated 25.11.2010. Feeling dis-satisfied, the petitioner approached the Hon'ble Supreme Court by filing SLP No.8522 of 2011, however, the same was also dismissed vide order dated 08.04.2011.

55. Thereafter, upon enactment of the Act of 2013, the petitioner instituted CWP-10592-2014, by invoking the lapsing provisions, as carried in Section 24(2) of the Act of 2013. However, the writ petition (supra) was ordered to be dismissed as withdrawn vide order dated 13.05.2015, with liberty reserved to the petitioner to file an appropriate writ petition challenging the acquisition proceedings, in accordance with law.

56. Availing the liberty (supra), the petitioner again filed CWP-10040-2015 before this Court, thereby asking for release of the petition lands, on the ground of parity, as the respondent-State had purportedly released the land of other private builders and landowners. However, the writ petition (supra) was disposed of, through an order made on 26.05.2015, thereby granting liberty to the petitioner to file a detailed and comprehensive representation before the authority concerned, canvassing therein all the pleas, as raised in the writ petition (supra).

57. Accordingly, the petitioner made a detailed representation to the Additional Chief Secretary to Government of Haryana, Town and Country

Planning and Urban Estate Department, Haryana, thereby seeking release of his lands. On such representation of the petitioner, a speaking order was passed on 28.11.2018.

58. The petitioner thereafter filed an application seeking exchange of land under the Land Pooling Policy, however, it was rejected by the Chief Town Planner, HSV P vide order dated 13.07.2022, on the ground, that since the award stands announced, thereby the disputed lands vest in the acquiring authority for all intents and purposes.

RELIEF(S) SOUGHT (IN CWP-276-2022)

59. The petitioner has sought quashing of the notice dated 30.12.2021 (Annexure P-12), whereby, the petitioners have been directed to vacate the acquired petition lands. The petitioners crave for the relief (supra) on the premise that they are ready to give such portion of land, free of costs, which is required for construction of road and other public utility services, as prescribed in the approved layout plan, if the constructed portion along with proportionate open area is released from acquisition, in terms of the release order dated 03.02.2021, wherethrough, similar benefit has been extended to other landowners. The petitioner has claimed release of his acquired lands on the ground of their becoming “unviable” and “non-essential” for achieving any public purpose, therefore, by dint of Section 101-A of the Act of 2013, and, by virtue of the policy dated 14.09.2018, wherebys, the petition lands warrant theirs being released from acquisition.

60. Furthermore, the petitioners have sought making of a mandamus upon the respondent(s) concerned to consider their proposal for exchange of land, as carried in representation dated 03.01.2022, in parity with one Bimla

Devi, whose proposal for exchange of land has been acceded to. The petitioner asks for reliefs (supra) *inter alia* on the premise that neither any assessment has been made qua the structures existing on the acquired petition lands, nor any award has been passed in respect thereof. It is further averred that out of total 13 Kanals 4 Marlas, only 11 Kanal 4 Marla has been acquired and the identification of un-acquired land is yet to be made.

FACTUAL MATRIX (IN CWP-276-2022)

61. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, for a public purpose, namely, for the development and utilization as residential, commercial and industrial area for Sector 10 and 11, Ambala Cantt. The proceedings for acquisition of the petition lands commenced through issuance of a preliminary notification, under Section 4 of the Act of 1894, on 10.11.2000. The said preliminary notification was succeeded by a declaration being issued under Section 6 of the Act of 1894, on 08.11.2001. Ultimately, to satisfy the mandatory preconditions, as contemplated in Section 11 of the Act of 1894, for thereby bringing to lawful termination the launched acquisition proceedings, an award was announced on 05.11.2003. Resultantly, the possession of the acquired petition lands was assumed, on 05.11.2003, by the acquiring authority concerned through the drawing of a Rapat Roznamcha bearing No.556.

62. Moreover, the factum qua the compensation amount being tendered before the authority concerned, for its being claimed by the landowners concerned, is carried in the reply furnished to the writ petition by Mr. Sukhbir Singh, Land Acquisition Collector, Urban Estate, Panchkula.

63. It would be significant to record here that the acquisition

proceedings (supra) were assailed by the petitioners through filing CWP-6281-2018 before this Court, by invoking the provisions of Section 24(2) of the Act of 2013, on the ground, that neither physical possession of the acquired land was assumed, nor the awarded compensation was paid to the petitioners. However, the writ petition (supra) was kept in abeyance awaiting the decision of the Hon'ble Supreme Court, as regards the interpretation of Section 24(2) of the Act of 2013, decision whereof, was finally delivered by the Hon'ble Apex Court in the judgment titled ***“Indore Development Authority v. Manoharlal”, 2020 AIR (Supreme Court) 1496***. Thereafter, in view of the expostulation of law, as carried in the judgment (supra), the writ petition (supra) was dismissed vide order dated 17.08.2021.

64. After passing of the dismissal order (supra), upon the writ petition (supra), the impugned notice dated 30.12.2021 has been issued upon the petitioners, thereby asking them to vacate their unauthorized occupation from the petition lands.

65. Since the plea (supra) banked, upon, Section 24(2) of the Act of 2013 has been declined to the writ petitioner, thereby the said plea cannot be re-canvassed before this Court. Moreover, in case, any plea of discrimination, if becomes raised in the writ petition, is impermissible to be raised herein, as the same, if raised earlier, became declined, and/or, if the same remained unraised therein, thereby the factum of it being unraised therein, rather estopping the petitioner to, within the estopping principle incorporated in Order II Rule 2 CPC, thus re-espouse the same.

ANALYSIS

66. We have heard the learned counsel(s) appearing for the

contesting litigants and also perused the record attached with the petition(s), including the original file noting of the respondent-State. The fulcrum of the arguments, as advanced by the respective learned counsel(s) for the petitioner(s) in all these writ petitions, is summarized hereunder:-

“(a) Owing to “unviability” and “non-essentiality” of the petition lands for facilitating any public purpose, they are amenable for being de-notified, in terms of Section 101-A of the Act of 2013, as well as, the policy dated 14.09.2018;

(b) The petitioners be treated at par with one Bimla Devi, whose proposal for exchange of land has been acceded to by the authorities concerned.”

REASONS FOR REJECTING THE SUBMISSIONS OF THE LEARNED COUNSEL(S) FOR THE PETITIONER(S) (IN ALL WRIT PETITIONS)

67. The learned counsel(s) for the respective petitioner(s) have made heavy dependence upon the policy dated 14.09.2018, titled as “The Policy for Return of Un-utilized Land”, wherethrough, the State Government has prescribed the procedure for de-notification of acquired lands, if the same becomes “unviable” or “non-essential”. Since Clause 7 of the policy (supra) has been mainly relied upon by the learned counsel(s) for the petitioner(s) to seek release of acquired lands, therefore, it is deemed imperative to reproduce the Clause (supra) hereunder:-

“7. The District Level Sub-Committee constituted under clause 5 or clause 6, as the case may be, shall while examining the 'opinion' of the acquiring department consider the following issues:

(i) if the acquired land has become non-viable land or non-essential land.

(ii) extent of payment of compensation, if any, to the land owner(s) on account of damages, if any, sustained by them due to acquisition of land.

(iii) extent of compensation by providing alternate land along with payment of damages, if any, in case of part utilization of acquired land or in case of any encumbrances created on/against the acquired land or part thereof.

Explanation:-

(1) Unviable land means the whole or part of the acquired land which has become unsuitable for utilization for the purpose for which it was acquired due to act of Nature, or increase in acquisition cost as a result of any reason including any enormous enhancement in compensation amount payable on such a land due to court orders, or material or drastic change in policy of the Government wherein such extenuating circumstances have emerged where in the opinion of the Government to be recorded with reasons, it would not be in public interest to continue with acquisition, or change in socio-economic and geographical factors in respect of the acquired land or for any other reasonable cause.

(2) Non-essential land means the whole or part of the acquired land which cannot be practically utilized for the purpose for which it was acquired to any of the reasons enumerated in explanation (1) or better alternatives have become available for the project and it is not possible to continue with any alternative public purpose in respect of acquired land.”

68. A perusal of the policy (supra) reveals that it has been issued on the administrative side to implement the provisions of Section 101-A of the Act of 2013. However, the policy (supra) makes it abundantly lucid, that through an administrative action, the respondent-State has tried to expand the scope of Section 101-A of the Act of 2013, by attaching an explanation to it, which but is wholly impermissible under law. It is trite law, that through any executive decision, thus a legislative enactment cannot be refashioned. Being

so, this Court on 13.09.2023, had passed the hereinafter extracted order:-

“1. Mr. A.K. Singh, IAS, ACS, Public Health Engineering Department, Haryana, who at the relevant stage, when the releases of acquired lands were made, thus was functioning as Principal Chief Secretary, has appeared in person, before this Court.

2. The necessity for this Court requesting the above officer, to record his personal appearance before this Court, arose from his being endowed with wisdom, to ensure that the releases, as made by the executive actions, without supported by the verdicts of this Court, thus under the policies, drawn in pursuance to 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 inserted through Haryana Act No.21 of 2018, were palpably made in breach of the principles settled by the Constitution Bench of the Hon’ble Apex Court in case of “Indore Development Authority v/s Manoharlal and Ors.”, reported in (2020)8 SCC 129, whereby the Hon’ble Apex Court has propounded that, upon, lawful acquisitions taking place, thereupon there is complete vestment of right, title and interest over the acquired lands, in the Acquiring Authority concerned. Resultantly, thereby the Acquiring Authority become vested with complete ownership rights over the acquired lands. Therefore, unless the possible ground for applying the parameters of unessentiality or unviability of retention of the acquired lands, thus become well planked, upon, either vis major or upon exorbitant sums of compensation amount becoming determined, vis-a-vis the acquired lands, whereby the liquidation(s) of such exorbitant determined compensation sums of monies, thus causing an onerous burden on the exchequer.

3. However, it appears that the respondent-State in ordering for the releases of acquired lands through, applying the above parameters, has not borne in mind, the above reckonable canons, governing the application of the above parameters, thus in theirs rather ordering for the release(s) of the acquired lands. Contrarily it appears that without the keenest application of mind, and, also in a slipshod manner, merely on the asking of the land losers concerned, who appear to be builders, and, developers, and, also on mere mercy being shown, to

the land losers concerned, thus releases have been made.

4. It was in the above context that this Court had requested, the officer to appear personally before this Court.

5. It is also in the context of some orders earlier passed by this Court, wherein it is spoken that even after compensation becoming released, to the land losers concerned, they had yet succeeded in the releases being made to them, and, thereby this Court was led to make an order, upon the officer concerned, to place on record, statistics with respect to the remedies undertaken for ensuring that such received compensation amounts, by the land losers concerned, becoming lawfully restituted to the State, as unless the said is done thereby there would be loss to the State exchequer, besides there would be loss to the public interest, as from the recovered or restituted sums of money thus developmental works can becoming undertaken by the respondent-State.

6. Learned State counsel Mr. Ankur Mittal, appears to become endowed with wisdom, and, also appears to be sensitized to the orders, which have been passed from time to time by this Court. In view thereof, his endeavours are profoundly appreciated by this Court.

7. Learned State counsel has also placed on record, a signed noting made by the ACS, Urban Estate with a clear echoing therein, that the State of Haryana, is most keenly considering to withdraw the policies, so that there would be curtailment of litigations, as may arise on mis-application of the said policies to the land losers concerned, and, also would palpably curtail the availment of any opportunity by the land loser concerned, to claim parity but on the plank of the other purportedly similarly situated land losers concerned, becoming assigned the benefit of the said policies or schemes, as became formulated by the State of Haryana.

8. The issuance of CLUs and NOC, by adjunct wings of the Government of Haryana, after lawful acquisitions happening, does thereby also directly affect the investment of right, title and interest over the acquired lands, thus as owners, in the Acquiring Authority. Conspicuously when constructive notice vis-a-vis issuance of acquisition notifications, is visibly endowed, upon all the wings of the Government of Haryana, whereby they are forestalled from issuing

any NOCs or CLUs to any land looser concerned. Therefore, statistics in the above regard be also purveyed to this Court.

9. The Officer (supra), as well as the learned State counsel, assure this Court, that the Government of Haryana shall very shortly take a decision to thus recall the said policies and schemes. It is expected that an intimation in the above regard shall be purveyed to this Court, by the learned State counsel on or before the subsequent date of hearing.

10. The officer/official concerned, is directed to, on the subsequent date of hearing, make his personal appearance before this Court, along with the complete records relating to the drawing of Annexure P-10.”

69. Pursuant to the above extracted order, the learned State counsel, on 21.09.2023, has placed on record a letter addressed to the office of Advocate General, Haryana by the office of Financial Commissioner, Revenue and Addl. Chief Secretary to the Government of Haryana, Revenue and Disaster Management, wherein, it is recorded that **the subject matter relating to withdrawal of the policy (supra) is under active consideration of the State Government and will be notified after approval from the Council of Ministers. (emphasize specifically)**

70. In such a situation, when the policy (supra) is in the process of being withdrawn by the State Government, thus it lacks any vigour to thereby sustain the writ claims.

71. Now, insofar as Section 101-A of the Act of 2013 is concerned, it is but manifestative, that Section 101-A cannot be invoked by the landowners in a mechanical manner, without pointing any cogent evidence on record, suggestive that the acquired lands have become “unviable” and “non-essential” for any efficacious use by acquiring authority concerned. This Court has already considered the scope and object of Section 101-A of the Act of

2013, in a judgment rendered in case titled “***Lalit Kumar and another vs State of Haryana and another***”, ***CWP-9666-2023***. The relevant paragraphs of the judgment (supra) are reproduced as under:-

“16. This Court has examined the provisions of Section 101-A of the Act of 2013, in the light of the above laid down principle. For ready reference, Section 101-A of the Act of 2013 is reproduced as under:-

“101A. Power to denotify land.- When any public purpose, for which the land acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894) becomes unviable or non-essential, the State Government shall be at liberty to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the land owner due to such acquisition: Provided that where a part of the acquired land has been utilized or any encumbrances have been created, the landowner may be compensated by providing alternative land alongwith payment of damages, if any, as determined by the State Government.”

17. A reading of the above extracted provisions elucidates that it is an enabling clause, giving right to the State Government, to de-notify such portion of lands, which according to the State, has become unviable and unessential. However, at this stage, we are not examining the constitutional validity of insertion of Section 101-A in the principal Act, by the State Government, thereby leaving this issue open for adjudication in an apt lis. Although there is no restraint on any landowner to approach the competent authority concerned to seek de-notification of his acquired lands, under the provisions (supra), however such landowner does not have any vested right to continue to retain his possession over the acquired lands, until their representation for release of acquired lands from acquisition, is ultimately decided. The provisions of Section 101-A of the Act of 2013 cannot be invoked in a mechanical manner, merely on asking of the petitioners/landowners concerned, to assert that they have vested right to seek de-notification of their acquired lands.

18. As has already been observed hereinabove, this is the third round

of litigation, whereby the petitioners have primarily aimed at obtaining a relief to retain their illegal possession over the acquired lands. Moreover, the petitioners have not been able to point out any single cogent evidence on record suggestive that their acquired lands have become unviable or unessential for efficacious use by the acquiring authority concerned.”

72. Moreover, this Court in ***CWP-15174-2023***, titled as ***“The Press Employees and Friends Co-operative Group Housing Society Ltd. V/s State of Haryana and others”***, decided on ***19.07.2023***, made the hereinafter extracted observations:-

“29. Section 101-A has been inserted by the State legislature only with the intent to protect the State Government/acquiring authority from the saving effect of Section 6 of the Act of 1897 and that protection is available only in the circumstances, when the acquired land has become “unviable” and “non-essential” for any public purpose.

30. The combined effect of Section 114 of the Act of 2013 and Section 6 of the Act of 1897 has limited the scope and applicability of Section 101-A. The saving, as assigned in Section 6 of the Act of 1897, would not apply to the extent hindered by Section 101-A. Therefore, the power to de-notify lands, by virtue of Section 101-A, can only be invoked when the twin statutory ingredients, are fulfilled. Therefore, the de-notification of acquired lands is only possible when such lands fall within the domain of the above prescribed twin conditions, which are the mandatory pre-conditions for the State Government to form a subjective opinion, while taking into consideration the larger public interest.”

73. In view of the above alluded settled legal proposition, since in the present writ petitions also, the acquisition proceedings stood lawfully terminated, as elaborated hereinabove, therefore, since Section 101-A of the Act of 2013, which is only an enabling clause for the State Government/acquiring authority to de-notify the acquired land, but only if it becomes “unviable” and “non-essential” for any efficacious public purpose,

thereby the said statutory provision does not endow any right in the erstwhile landowners to either challenge the validity of already lawfully concluded acquisition proceedings, or, to seek release of their acquired lands, on mere oral assertions, without bringing any cogent material on record.

74. The power to de-notify lands, by virtue of Section 101-A, can only be invoked when the twin statutory ingredients therein, i.e. the acquired lands becoming “unviable” and “non-essential” for any public purpose, rather are satisfactorily fulfilled. Therefore, the de-notification of acquired lands is only possible when such lands evidently fall within the domain of the above prescribed twin conditions, which are the mandatory pre-conditions for the State Government to form an objective opinion, while taking into consideration the larger public interest.

75. Conspicuously, in the formation of the said objective opinion, only the executive has the prerogative to take, or, to form the said objective opinion and the landlooser(s) concerned cannot dictate the manner of making of such objective opinion(s), nor can thrust his standpoint, vis-a-vis, the executive, in the latter taking a view, that the benefits of said statutory ingredients are to be compulsorily assigned to the landlooser(s) concerned. The reason being, that the landlooser(s) concerned has an individualistic interest in his seeking exemption of his acquired lands, whereas, the executive in his making objective contemplations about the meteing of benefits thereof to the landlooser(s) concerned, or, not meteing benefits thereof to the landlooser(s) concerned, thus is required to be bearing in mind the larger public interest. Therefore, in the manner(s) of making of objective contemplations, vis-a-vis, meteings or assignments of benefits of the said

statutory conditions, to the landlooser(s) concerned, the imperative factor may be the inclusion of the disputed lands in the layout plans concerned. If so, the inclusion of the disputed lands in the layout plans renders them to be working towards a public purpose, and/or, thereby the disputed lands become an insegregable component of an imperative public purpose. Therefore, when even otherwise, this Court is barred in the exercise of its writ jurisdiction, to review or to re-examine the formulation of layout plans, thus by the engineering cell of the acquiring authority concerned. Resultantly, reverence is to be meted to the layout plans concerned, which includes therein the disputed lands. In sequel, the release(s) of acquired lands, but on the above statutory conditions, thus may be barred to be claimed by the landlooser(s) concerned.

76. In making the above inference, this Court finds support from the replies respectively furnished to the writ petitions, wherein, it has been categorically stated, that the acquired lands are essential for facilitating the public purpose(s), as carried in the respectively drawn Final Development Plans concerned. Therefore, when the acquired lands are an insegregable component of emergent public purposes and are also but required for developmental activities, thereby their release would prejudicially affect the relevant public purposes. Therefore, for ensuring that the relevant public purposes are not impeded, thus predominance is to be assigned to public interest, than to the individualistic interest of the erstwhile landowners concerned.

77. Nonetheless, it is also no more *res integra* that if after utilization of the acquired land for the relevant public purpose, rather some lands, yet remain unutilized, thereby they need not be returned to the original landowner, rather

they can either be utilized for any other public purpose or it can be sold by way of public auction, so as to achieve the larger public interest. Gainful reference in this regard can be placed upon case titled “***State of Kerala v. M. Bhaskaran Pillai***”, ***AIR 1997 SC 2703***, wherein, the Hon’ble Supreme Court has held as under:-

“...3. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges: Whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting higher value....”

78. Also, the provisions of Section 101-A does not vest any discretionary power in the State Government for de-notification of the lands, which remained unutilized for a long span, rather the only permissible ground for de-notification is “unviability” or “non-essentiality” of the acquired lands for being put to any efficacious public purpose.

79. Therefore, but obviously, non-utilization(s) of the acquired lands for a prolonged duration of time does not thereby render them to be “unviable” or “non-essential” for the requisite public purpose. The reason being, that

public purpose is the cornerstone for acquisition(s) of the disputed lands, and, rather on retention of the acquired lands, than making release(s) thereof to the landlooser(s) concerned, thus the public purpose rather would still remain intact or alive. In consequence, the ever alive public purpose is required to be effectively galvanized. The above would happen only on retention of the acquired lands, than their release(s) or exemption(s) being meted to the landlooser(s) concerned, but, irrespective of the fact, that the disputed lands remain unutilized for an inordinately long spell of time.

80. In the non-purveying of enablements, vis-a-vis, the landlooser(s) concerned qua the beneficent grace of the above statutory conditions of “unviability” or “non-essentiality”, thus would be construed to be well exercised, rather by the executive, only upon evident occurrence(s) of *vis major* or upon exorbitant and excessive sums of compensation monies, becoming determined by the statutory authority, thereby making the relevant project to be financially unviable. Therefore, to the considered mind of this Court, the limits or the domains, besides the functionality of the above statutory conditions, is thus, within the realm of evident emergence(s) of *vis major* or upon exorbitant and excessive sums of compensation monies, becoming determined by the statutory authority, thereby making the relevant project to be financially unviable.

81. The hereinabove elaborately assigned reasons are ample for rejecting the principal argument of the learned counsel(s) for the petitioner(s), which generates from Section 101-A of the Act of 2013, as well as, the policy dated 14.09.2018.

82. Now, adverting to the secondary claim of the petitioner(s),

inasmuch as theirs being treated at par with one Bimla Devi, whose land has been ordered to be released/exchanged by the authorities concerned, it is deemed essential to make a brief survey of facts, rather underlying the purported grant of relief (*supra*) to Bimla Devi. For that purpose, we had called for the original record relating to the case of said Bimla Devi and upon perusal thereof, the following facts became unveiled.

83. After receiving dis-affirmative decisions and losing the legal battle uptill the Hon'ble Supreme Court qua release of their acquired lands, one Bimla Devi and some other erstwhile landowners approached the authorities concerned with a mercy petition. Consequently, the authorities concerned granted the asked for relief of release/exchange of acquired lands to said Bimla Devi and her companions.

84. It would be relevant to record here that initially, the Department of Town and Country Planning concerned recommended to release the lands, however, the Department of HSVP Gurugram dissented from the said proposal qua the release(s) of the acquired lands, on the ground, that the applicant(s) have made unauthorized occupation over the lands and have also constructed some rooms and boundary wall, therefore, any recommendation to release the lands would affect the planning of HSVP. Thereafter, legal opinion was sought from the office of Advocate General, Haryana, who after making detailed deliberations and relying upon the judgment of *Indore Development Authority's case (supra)*, recommended to reject the mercy petition (*supra*). However, thereafter it appears that owing to some purported bonafide additional facts, thus terming them to be technical facts, thereupon, it appears, that thus may be on a bonafide consideration of the matter, thus from the

office of Advocate General, Haryana, a legal opinion favourable to the above became rendered, resulting in the same becoming relied upon by the department concerned. Consequently, Letter of Intent was issued thereby granting the asked for relief. However, the relief (*supra*) was granted merely on a mercy petition of the said landlooser(s). The assigning of relief(s) on mercy petition(s) but obviously is not the tenable mode of release or exempting lands from acquisition. Significantly, merely on the premise of flimsily made release(s) of lands to one Bimla Devi, the petitioner(s) cannot claim parity with her. For ready reference, the details of cases, wherein, Letter of Intent was issued before the drawing of the judgment in *Indore Development Authority’s case (supra)* are extracted hereunder:-

GURUGRAM ZONE					
Sr. No.	Name of land owners	Sector No.	Land release area	Date of LOI	Final release order
1.	CWP No. 4839/2018-Ajay Kumar and others Vs. State of Haryana	Sector 24, 25, 25A, Gurugram	204.85 sq. yard	Memo No.5/15/2019-2TCP dated 30.09.2019	Memo no.5/15/2019-2TCP dated 09.03.2020
2.	Regarding release of land of Sh. Rattan Lal s/o Sh. Lal Ji Ram (Rewari)	Sector 19, Rewari	635 sq. yard	Memo No.5/3/2020-2TCP dated 22.01.2020	Memo No.5/5/2022-2TCP dated 31.3.2022
ROHTAK ZONE					
3.	Mandir Thakur Ji Wala, Kashan Wala Mashk Mandir, Thakur Wala through GPA (Gair Murushi) Sh. Harish Kumar s/o Sh. P.S. Sharma, # 244/9, Kayasth Mohalla, Tehsil & District Rohtak (Haryana)	Sector 6, Rohtak	7596.44 sq. yard	Memo No.5/8/2020-2TCP dated 02.07.2020	Memo No.5/1/2022-2TCP dated 12.01.2022
4.	Sh. Mahender Singh s/o Sardar Singh, Near ITI, Jhajjar Road, Bahadurgarh, Tehsil Bahadurgarh, District Jhajjar (Haryana)	Sector 2, Jhajjar	700 sq. yard	Memo No.5/18/2019-2TCP dated 13.11.2019	Memo No.5/6/2020-2TCP dated 21.05.2020
PANCHKULA ZONE					

5	CWP No.4028/2001-SBI Employees and Associates Co-operative HBS V/s State of Haryana-Regarding release of land/houses in Sector-5C, MDC, Panchkula	Sector-5C, MDC, Panchkula	2327.55 sq. yard	Memo No.5/25/2018 -2TCP dated 12.03.2019	Memo No.5/7/2020-2TCP dated 02.06.2020
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Also, for ready reference, the details of cases, wherein, lands were released after the drawing of the judgment in *Indore Development Authority’s case (supra)* are extracted hereunder:-

GURUGRAM ZONE						
Sr. No.	Name of land owners	Sector No.	Land release area	Date of LOI	Final release order	Remarks
1.	Smt. Bimla Devi, Sunil, Anil Kataria, Smt. Neelam, Suman, Murti Devi etc. Gurugram	Sector 10, Gurugram	20320 sq yard (4.19 acres)	Memo No.5/2/2021-2TCP dated 03.02.2021	Memo No.5/2/2021-2TCP dated 05.07.2021	
2.	CWP No.6804/2022 titled as Hem Singh Yadav V/s State of Haryana, Rewari	Sector 10, Rewari	272 sq. yard	Memo No.5/8/2022-2TCP dated 05.09.2022	Final Release order not issued till date	As per Hon’ble High Court order dated 17.8.2022
PANCHKULA ZONE						
3.	Sh. Roshan Lal Dhanda and Sh. Narender Kumar ss/o Sh. Hawa Singh, Bypass Chowk, Kurukshetra Road, Kaithal	Sector 19-20, Kaithal	2K-13M	Memo No.5/3/2021-2TCP dated 22.12.2021	Final Release order not issued till date.	
FARIDABAD ZONE						
4.	1. Sh. Sandeep Girdhar s/o late Sh. Ramesh Chand Girdhar, r/o House No.435-436, Sector 16A, Faridabad. 2. Sh. Rajiv Girdhar s/o Late Sh. Ramesh Chand Girdhar, r/o House No.435-436, Sector 16A, Faridabad. 3. Smt. Kiran Girdhar wd/o late	Sector Road 75 & 89, Faridabad	12492.04 sq. yard	Memo No.5/9/2022-2TCP dated 07.10.2022	Memo No.5/9/2022-2TCP dated 10.04.2023	

	Sh. Ramesh Chand Girdhar, r/o House No.435-436, Sector 16A, Faridabad. 4. Sh. Raj Kumar Girdhar s/o Sh. Hotu Ram Girdhar, R/o House No.932, Sector 15, Faridabad. 5. Smt. Durga Devi w/o Sh. Raj Kumar Girdhar, r/o House No.932, Sector 15, Faridabad. 6. Sh. Amir Chand Girdhar s/o late Sh. Hotu Ram Girdhar, r/o House No.683, Raj Garden, Old Faridabad. Sh. Davinder Kumar Girdhar s/o Sh. Amir Chand s/o Late Sh. Hotu Ram Girdhar, r/o House No.683, Raj Garden, Old Faridabad.					
ROHTAK ZONE						
5.	The President, Arya Sabha Gurukul, Vidhalya Arya Sabha Gurukul, Vidhalya Sabha Gurukul, Jhajjar, District Jhajjar (Haryana)	Sector 6, Jhajjar	20376.4 sq. yard (4.21 acres)	Memo No.5/3/2022-2TCP dated 11.02.2022	Final Release Order not issued till date.	
6.	(1) Smt. Sumitra Berwal w/o Lt. Col. Ranbir Singh, OD-25, Malibu Town, Sector 47 (2) Smt. Sumitra Devi w/o Capt. Rajbir Singh, H.No.486, Sector-1, Rohtak (Haryana)	Sector 4,5 Rohtak Sector 4, 5 Rohtak	210 sq. yard 210 sq. yard	Memo No.5/9/2020-2TCP dated 09.07.2020	Memo No.5/9/2020-2TCP dated 28.07.2020	
7.	CWP No.6875 of 2013- Ram Kumar V/s State of Haryana and another connected 13 CWPs	Sector 27A, Rohtak	22.96 acres	Memo No.5-1-2023-2TCP dated 21.03.2023	Final release order not issued till date	As per Hon’ble High Court order dated 07.10.2013 and 19.01.2015
HISAR ZONE						

8.	Dr. Deepak Bansal s/o Sh. Ranvir Singh Bansal, r/o # 386, Ward-3, Vaishno Mata Mandir Dabwali, Distt. Sirsa.	Sector 10, Dabwali	2299 sq. yard	Memo No.5/5/202 0-2TCP dated 13.03.2020	Final Release order not issued till date.	
9.	CWP No.7082/2015 titled as Bishamber Dayal vs. State of Haryana (C/o Jai Bharat Electric Co. Main Bazar, Mandi Dabwali, Distt. Sirsa).	Sector 10, Dabwali	1635.55 sq. yard	Memo No.5/6/202 2-2TCP dated 19.04.2022	Final release order not issued till date	As per Hon'ble High Court order dated 28.9.2016
10.	CWP No.26494 of 2016- Satpal Yadav & ors. Vs. State of Haryana	Auto- Market Hansi	418.77 sq. yard	Speaking order passed vide order No.A- 3/2021/741 6-49 dated 08.11.2021	LOI not issued till date.	

85. However, upon a strict condemnation being made by this Court qua passing of such release orders without any able authority, the State Government decided to withdraw the Letter of Intent, as issued in favour of Bimla Devi and other erstwhile landowners, whose lands was also released in the same fashion. Accordingly, all such similarly issued Letters of Intent, whereby, relief of release of lands was granted, thus were withdrawn, except the ones which were drawn in pursuance to orders passed by this Court or by the Hon'ble Supreme Court.

86. In view of the above, the secondary argument of the learned counsel(s) for the petitioner(s) also pales into insignificance, as the apposite release orders have been recalled, therefore, the petitioner(s) cannot claim any parity with said Bimla Devi.

The inter play of the verdict rendered by the Hon'ble Supreme Court in case titled "Indore Development Authority v. Manoharlal" (supra) with the provisions of Section 101-A of the Act of 2013

87. The import of the verdict of the Hon'ble Supreme Court, as rendered in the case of *“Indore Development Authority v. Manoharlal” (supra)*, is that, upon the twin statutory conditions embodied therein, inasmuch as, (a) the necessity of tendering of compensation for its becoming claimed for being released to the landowners concerned; (b) the assumption of possession being evidently assumed by the acquiring authority, thus through the drawing of a Rapat Roznamcha, thus becoming fulfilled, as has happened in the instant case(s), thereby the petitioners become disentitled to claim lapsing of the earlier drawn acquisition proceedings under the Act of 1894.

88. Consequently, the provisions of Section 101-A, which have been introduced in the Act of 2013, through Haryana Act No.21 of 2018, thereby they prima facie cannot undo the effect of the above wants of declaration(s) being made, vis-a-vis, the landlooser(s) concerned, as thereby there would be an unwanted conflict inter se the non-makings of declaration(s), vis-a-vis, the lapsing of the earlier drawn acquisition proceedings under the Act of 1894, and, the provisions (supra). Necessarily, the above inter se conflict is to be avoided. Therefore also, the parameters of “unviability” or “non-essentiality” require theirs being aligned with the rendition of affirmative discharging evidence by the acquiring authority, thus in satiation of the twin statutory parameters (supra), whereby, the claim for lapsing of the earlier launched proceedings under the Act of 1894, thus is required to be negated.

89. Therefore too, unless the above alluded to evidence, vis-a-vis, evident *vis major* erupting, and/or, evident exorbitant and excessive sums of compensation monies being determined by the statutory authority, thereby making the acquired lands respectively “unutilizable”, and/or, “unviable” or “non-essential”, for theirs being retained for the apposite public purpose,

thereupon, their releases from acquisition, rather would undo, the public purpose, which is paramount for nation building, and, for the economic growth of the country. Significantly, then paramountcy is to be assigned to public purpose, than to individualistic interest of landlooser(s) concerned, and thereby also, the landlooser(s) concerned cannot, at this belated stage, claim the benefit of the mandate comprised in Section 101-A of the Act of 2013, and that too, pointedly on the ground of the lands remaining unutilized for a long spell of time, especially when the above factum of non-utilization of the acquired lands for a long duration of time has been dealt with earlier to be not the relevant factor for making release(s), or, exemption(s) of the acquired lands from acquisition.

90. The paramount effect of the above, is that, but restrictive interpretation(s) are to be assigned, thus on harmonizing the provisions of Section 24(2) of the Act of 2013 with the provisions, as occur in Section 101-A of the Act of 2013. Consequently, thereby the public purpose which the acquired lands would subserve upon their acquisitions being made, through the exercisings of the power of eminent domain, thus cannot be whittled down, merely on capricious exercise of powers (supra) vested in the executive, as thereby the economic growth of the country, as would become ensured through public purpose(s) becoming subserved, rather would become forestalled. Necessarily, nation building, which is more important than individualistic building, becomes the cornerstone for retention of the acquired lands.

91. Irrespective of the above, the claim(s) of the petitioner(s) is stained with the gross pervasive vice of delay and laches, as the relevant

acquisition proceedings, as elaborated hereinabove, were evidently legally terminated prior to the institution of the present writ petitions. The present writ petitions are aimed at reviving stale and time barred claims. However, it is not more *res integra* that a person who raises his claim after a considerable delay, has to be told that such delay and laches estop him to knock at the doors of the courts of law.

92. To the above formed inference, ample corroboration is lent by the Hon'ble Apex Court, as in a judgment rendered in case titled "Star Wire (India) Ltd. V/s State of Haryana and others", reported in (1996) 11 SCC 698, Hon'ble Apex Court has declared that any belated challenge, as made to the lawfully terminated acquisition proceedings, is hit by the vice of delay and laches, therefore, the said belated motion is required to be declared as misconstituted.

Expanse of the doctrine of eminent domain

93. Be that as it may, the doctrine of eminent domain has a very wide and expansive scope, and, is restricted only when no just and fair compensation becomes assessed, vis-a-vis, the acquired lands. Therefore, any other fetter or restriction on the exercisings of powers of eminent domain, as may become employed, through release(s) of acquired lands being made, excepting upon the above parameters, thus regulating the exercise of the executive jurisdiction, as invested under Section 101-A of the Act of 2013, rather would pause economic growth and nation building. The above is required to be avoided, as the nation is paramount, or, is supreme than any individualistic interests. Therefore too, the individualistic interests are to succumb to the supreme interest of the nation, which is but its economic

prosperity becoming ensured through public purpose being subserved, through well made acquisitions of lands of private landowners.

94. Moreover, the doctrine of eminent domain, in cases of acquisitions of lands being made under the Act of 1894, but becomes obliterated, on the acquiring authority not adducing affirmative discharging evidence qua satiations, vis-a-vis, the duo of conditions, as embodied in Section 24(2) of the Act of 2013, inasmuch as, no evidence being adduced, vis-a-vis, satiation being meted to (a) the necessity of tendering of compensation for its becoming claimed for being released to the landowners concerned; (b) qua necessity of Rapat possession becoming assumed by the acquiring authority. However, the play of the mandate of the Hon'ble Apex Court appears to be yet prima facie restricted by the provisions of Section 101-A of the Act of 2013, as became inserted therein through Haryana Act No.21 of 2018, but since as stated hereinabove, to avoid a conflict inter se the judgment of the Hon'ble Apex Court rendered in the case of ***"Indore Development Authority v. Manoharlal"*** (*supra*), and, the newly inserted provisions of Section 101-A, in the Act of 2013, this Court has hereinabove stated, that the grounds of "unviability" or "non-essentiality" of the acquired lands for theirs being retained for public purpose(s), is strictly confined to occurrence of evident *vis major* or upon exorbitant and excessive sums of compensation monies becoming determined by the statutory authority, thus thereby making the relevant project to be financially unviable.

95. The making of the above inter se harmonization and reconciliation is extremely important, as thereby alone the power of eminent domain would become well facilitated, besides would make workable, besides would subserve the apposite public purpose(s), which as stated (*supra*), are

imperative for the growth of the country.

96. Furthermore, the dynamics of public purpose also requires theirs being assigned adequate reverence. The said dynamics cannot be permitted to be blunted, nor can be ensured to be maimed, only when for a prolonged duration of time, the acquired lands become unutilized. Once the acquiring authority, upon, exercising the power of eminent domain, has assessed just and fair compensation, and, has also deposited the said compensation for its being released to the landlooser(s) concerned, thereby the acquisitions thus cannot be termed to be expropriatory, nor the exercising of the power of eminent domain can be termed to be thus exercised capriciously. Resultantly, if the acquired lands are a part of the layout plans, in whose preparation the courts of law cannot make any review. Therefore, the inclusion(s) of the acquired lands in the layout plans, even if the said layout plans remain unexecuted for a prolonged duration of time, yet does not assign any leverage to the landlooser(s) concerned to claim, that thereby the apposite public purpose remains unserved, and/or, that the acquired lands are to be released.

97. The dynamics of public purpose are ever growing and are not required to be restricted merely on non-utilization of the acquired lands, and/or, for wants of the fullest execution of the layout plans, within which the acquired lands are included. Therefore, when over the acquired lands, complete vestment of right, title and interest occurs in the acquiring authority, thereby given the ever expanding scope of public purpose, but necessarily requiring, that variant to the initially notified public purpose, when may emerge in times to come, thereby the emergence of such public purpose(s) in future, do require the retention of the said acquired lands, than the acquired

lands being released from acquisition. Resultantly, thereby the acquired lands thus cannot be released from acquisition, merely on theirs, for a prolonged duration of time, rather remaining unutilized, besides but irrespective of the fact, that the acquired lands may also not be included in the layout plans.

98. The nation is emerging as the front-runner on the economic global landscape, and, is therefore a vibrant economy. Moreover, India is the most populous country, thereby the ever increasing population, does make exacting demands, upon the acquiring authority(ies), to persistently exercise its power of eminent domain to ensure, that thereby projects of National importance, or, of State importance, do become executed. Therefore, the retention of the acquired lands would ensure the vibrancy of the economy. The reason being, that if in future, there are constraints of land, for thereby theirs being employed for public purpose, as such, the said constraints would become further compounded, thus upon exemption or from release(s) of already acquired lands, rather being made. In sequel the retention of acquired lands, if they thus in future would but subserve “public purpose”, which may become engendered in times to come, rather is more imperative, than their releases being made, thus to the landlooser(s) concerned, but merely on account of their non-utilization.

99. Since the phenomenon of climate warming and climate change affecting the environment is but naturally adversely impacting the environment. Therefore, for mitigating the ill effects of climate warming, it may become necessitated that large expanses of land, are but put to afforestation. In consequence, for facilitating the above, the lands, which are acquired for public purpose(s), are to be thus retained, as thereby they would

subserve rather even the said public purpose.

100. Before parting with the judgment, it is deemed vital to record here that upon this Court noticing the indolent approach of either the beneficiary department concerned or the acquiring authority concerned, in taking possession of the acquired lands, which resultantly remained unutilized for a long span and thereby gave leverage to the erstwhile landowners concerned to, in terms of Section 101-A of the Act of 2013, revive stale and time barred claims for release of their lands, had made certain directions upon the respondent-State on 20.07.2023, which are extracted hereunder for ready reference:-

“9. Moreover, prima facie it also appears, that the elongated spell of time since the drawing of acquisition proceedings, and, also since in some cases, despite the makings of awards under the relevant statutes qua the acquired lands, yet such acquired lands, rather remain unutilized, and, as such it prima facie also appears, that such unutilizations of some acquired lands, thus may have purveyed leverage to the landowners concerned to, yet in terms of provisions of Section 101 of the Act of 2013, claim that thereby the lands are not either essential or viable for being put to the relevant public purpose. It is but the above lack of prompt utilization of lands for the relevant public purpose, that as stated above, leads to the landowners concerned, seeking to stake claims for release of lands, but on the anvil of provisions of Section 101A. The above was but avoidable, but only when there was lack of indolence, or, there was prompt utilization of the acquired lands, thus for the apposite public purpose. Even the lack of prompt utilization of lands for the relevant public purpose, thus may have been undone, rather subsequently through development plans being prepared, and thereby the public purpose, as stated in the acquisition notice, being somehow, even if shortcomings, if any, were therein, as, relating to the lands, thus acquired rather being prima-facie not in commensuration with the demands of public purpose, as stated in the acquisition notice rather may have become suserved.

Prima facie it appears, that even the afore steps remained unembarked, thereby prima-facie defeating public purpose besides sparking unnecessary litigation.

10. Consequently, in some cases it prima-facie appears, that there was complete lack of application of mind to the inter se commensuration about the quantum of lands being required for public purpose, and/or, as a matter of fact, qua such acquired lands being suitable or adequate for the public purpose, thus stated at the acquisition notification. Necessarily also, prima facie it appears, that a colossal loss to the exchequer has been caused, through yet compensation amount being assessed, and, may be also becoming disbursed to the landowners. Subsequently also thereby prima-facie endless litigation, on anchor of Section 101A of the Act of 2013, thus has in some cases hence germinated.

11. Though the statistics in respect of the observations (supra), have not been to the fullest extent, thus supplied through an affidavit sworn by the officer(s) concerned, but yet there has to be an apposite thereto ad nauseum detailed exercise to be done, at the instance of the concerned. Consequently, the learned ACS, Urban Local Bodies, and, C.A., HSVP are directed to forthwith constitute a team of officers drawn from all the Agencies, involved in acquisition of lands for public purpose, and to also ensure that such a constituted team thus, on the subsequent date of hearing, draws detailed statistics and also places on record such drawn statistics, and, as relate to: (i) the lands which were subjected to acquisition, and, such acquisitions, as stated in the acquisition notification, being of an area of land, but plainly and prima facie in commensuration with the demands of public purpose, for which such acquisition notification became drawn, and, became issued; (ii) the statistics appertaining to whether post the culmination of acquisition proceedings, there become executed, thus tainted deeds of conveyance inter-se the landowners concerned, with the vendees concerned, especially when the landowners concerned, but obviously on complete acquisitions taking place, thus became divested of any right, title or interest in such acquired lands, but who yet proceeded to execute deeds of conveyance in respect thereof qua the alienees concerned, who thereafter have assumed but obviously

unlawful possession over the acquired lands, thereby defeating the public purpose concerned; (iii) statistics relating to whether in respect of completely terminated acquisition proceedings, whether on such acquired lands, some trespassers or encroachers concerned, have raised structures, or, other properties, and if so, what action has been drawn or is proposed to be drawn against such trespassers and encroachers upon those lands, in respect whereof, acquisition proceedings have become lawfully terminated; (iv) moreover, the actions taken in respect of such encroachers and trespassers shall be detailed in the affidavit; (v) Statistic relating to the disbursement of compensation to the landowners concerned, after completest termination of earlier launched acquisition proceedings under the Land Acquisition Act, 1894, and, who have yet on anvil of Section 101A occurring in the Act of 2013, thus succeeded in getting the apposite acquisition notifications de-notified, and, thereafters also getting the appositely acquired lands released to them. Since thereafter, they were required to be refunding the compensation amount, as became earlier released to them, thus what steps have been initiated by the Authorities concerned, to launch recovery proceedings against such landowners.

12. Further, on the subsequent date of hearing, the statistics qua number of representations, irrespective of the above statement made, at the bar by the learned Advocate General, Haryana, or yet subjudice before the authorities concerned, thus be also placed on record.”

101. In pursuance to the above made directions, the learned State counsel has filed a compliance report, on affidavit of Mr. Ajit Balaji Joshi, Chief Administrator, HSVP, Panchkula. The relevant extract of the compliance report is extracted hereinafter:-

“4. That it is submitted that qua Direction no. (i) i.e the lands which were subjected to acquisition, and, such acquisitions, as stated in the acquisition notification, being of an area of land, but plainly and prima facie in commensuration with the demands of public purpose, for which such acquisition notification became drawn, and, became issued, it is submitted that the land has been acquired over a period of time for public

purposes namely, for development and utilization of land for residential, commercial, institutional, industrial, open spaces, roads in accordance with the provisions of published Development Plan of a Town. In this regard, the Estate Officers of HSVP in Haryana State have compiled the tentative data regarding the land acquired and land measuring 70663.23 acres has been acquired by the State Government for the Haryana Shehri Vikas Pradhikaran. Out of this land, possession of land measuring 68305.59 acres has been taken by HSVP and possession of 2357.54 acres has not been given by Land Acquisition Officer(s).

5. That it is submitted that qua direction no. (ii), i.e the statistics appertaining to whether post the culmination of acquisition proceedings, there become executed, thus tainted deeds of conveyance inter-se the landowners concerned, with the vendees concerned, especially when the landowners concerned, but obviously on complete acquisitions taking place, thus became divested of any right, title or interest in such acquired lands, but who yet proceed to execute deeds of conveyance in respect thereof qua the alienees concerned, who thereafter have assumed but obviously unlawful possession over the acquired lands, thereby defeating the public purpose concerned, it is submitted that information is being compiled with and for this purpose a committee under the Chairmanship of Administrator, HSVP cum Additional Director, Urban Estates, Haryana, Gurugram and comprised of respective Estate Officers-I and II, HSVP Gurugram and Land Acquisition Collector, Urban Estates, Haryana, Gurugram has been constituted and Deputy Commissioner, Gurugram has also been requested to send the details of such cases.

6. That qua direction no. (iii) i.e. statistics relating to whether in respect of completely terminated acquisition proceedings, whether on such acquired lands, some trespassers or encroachers concerned, have raised structures, or, other properties, and if so, what action has been drawn or is proposed to be drawn against such trespassers and encroachers upon those lands, in respect whereof, acquisition proceedings have become lawfully terminated, it is submitted that the menace of encroachments on public properties are creeping up day-by-day and creating obstructions to the planned development. The deponent ever since his joining as the Chief Administrator, HSVP has been monitoring the status of encroachments over the acquired land through its Enforcement Wing, with regular review meetings. The deponent directed the Estate Officers, HSVP:

(i) To take immediate necessary action for demolition of illegal constructions.

(ii) After removal of encroachments, to fence the acquired land with setting up of boards that "HSVP land and trespassers will be prosecuted."

(iii) The photographs and videography of the process of demolition is being done.

(iv) Making of schedule for removal of encroachments.

The deponent considering the aspect that there has been deliberate and thoughtful abuse and misuse of process of law by encroaching the acquired land of HSVP, has also issued directions to the Estate Officers:

(i) To lodge FIR against the encroachers.

(ii) To issue notices under Section 19 of the Haryana Shehri Vikas Pradhikaran Act, 1977 for claiming damages for unauthorized occupation of HSVP land.

The above steps according to the deponent will reduce the menace of encroachments to a great extent and will act as disincentive to repeated attempts to encroach over the HSVP acquired land.

7. That qua direction (iv) i.e the actions taken in respect of such encroachers and trespassers, it is submitted that the Estate Officers have acted for removal of encroachments from over the acquired land and since 01.01.2021 and upto 02.09.2023, encroachments over an area of 1498.13 acres have been removed by demolition of illegal structures/constructions. However, there is still an area of land measuring 1357.79 acres under encroachment and as per report of the Estate Officers, major part of this land i.e 912.51 acres is involved in the court cases wherein stay has been granted by different courts and in respect to land measuring 57.28 acres there are court cases pending, however, there is no stay in respect of the said land. The compiled detailed report of acquired land and encroachments and its removal prepared by the respective Estate Officers is annexed herewith as Annexure A-1 for kind perusal of the Hon'ble Court. At present, the detailed report of the Estate Officer-I and II, HSVP at Gurugram regarding encroachments removed for the period from 01.05.2023 till 19.09.2023 along with photographs of demolition done is collectively annexed herewith as Annexure A-2 for kind perusal of the Hon'ble Court. During this period from 01.05.2023 till 19.09.2023 as per the directions

of this Hon'ble Court, encroachments over an area of 147 acres has been removed in the jurisdiction of Estate Officer-I and II, HSVP at Gurugram. It is pertinent to mention that in the interregnum period, the encroachment removal drive got affected as large scale law and order problem arose in Haryana State and non availability of the requisite police force. It is further pertinent to state that the encroachments removal drive requires police assistance to succeed and at times, there result a situation where the police force is not available for such drives which affect the entire schedule.

8. That it is pertinent to mention that the HSVP developed Industrial Areas/ Sectors also in its different Urban Estates. However, the said industrial areas/sectors in pursuance to the decision of the Government had been transferred to the Haryana State Industrial and Infrastructural Corporation Limited (HSI IDC) vide letter no. CCF/HSVP/AO-1-2018/25660 dated 08.02.2018 and letter No. CCF/HSVP/AO-1-2018/35660 dated 22.02.2018. Pursuant to the said decision, the complete record of the allotments of said areas have been transferred to HSI IDC. Hence, now, HSI IDC will be responsible for any encroachment or its removal from the transferred area.

9. That it is submitted that the State Government has constituted Gurugram/ Faridabad/Panchkula/Sonipat Metropolitan Development Authority in District-Gurugram, Faridabad, Panchkula and Sonipat under separate Acts. The development of master services i.e. Roads, Sewer, Drainage and other town level services have already been transferred to the said metropolitan authorities at Gurugram and Faridabad respectively. Thus, necessary action for removal of any encroachment from these master services will be taken by the respective Metropolitan Authority. In respect to the Metropolitan Authority at Panchkula and Sonipat, the services are yet to be transferred.

10. That it is submitted that qua direction no. (v) i.e Statistic relating to the disbursement of compensation to the landowners concerned, after completest termination of earlier launched acquisition proceedings under the Land Acquisition Act, 1894, and, who have yet on anvil of Section 101A occurring in the Act of 2013, thus succeeded in getting the apposite acquisition notifications de-notified, and, thereafters also getting the appositely acquired lands released to them. Since thereafter, they were required to be refunding the compensation amount, as became earlier released to them, thus what steps have been initiated by the Authorities

concerned, to launch recovery proceedings against such landowners, it is submitted that office of the Director, Urban Estates Department has informed that till date, no land pertaining to individual landowner has been released under Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Hence, the information pertaining to the refund of compensation amount on account of release under Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may be treated as NIL.

11. That it is submitted that the development process and disposal of land cannot be stopped merely on basis of representation under section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In any case, the putting to auction of plots on acquired land is demonstrative of its viability and essentiality for the HSVP and thus, excluding it from scope of Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently, any alleged claim under section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, need to be treated as automatically rejected requiring no consideration at all. However, qua directions of this Hon'ble Court to submit the statistics qua number of representations sub-judice before the authorities concerned, it is submitted that office of the Director, Urban Estates Department, Haryana, has provided the data showing that a total of 525 representations have been received under Section 101A of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and which are pending for decision of the competent authority. It is submitted that the State Government has constituted a committee under the Chairmanship of the Zonal Additional Directors, Urban Estates cum Administrators, HSVP and the said committee is to hear the applicants and submits its recommendations to the Government. The Government thereafter considers the recommendations submitted by the said constituted committee and takes the final decision on acceptance or rejection of the representation. The Director Urban Estates, Haryana conveys the decision of the Government and Zonal Additional Directors, Urban Estates cum Administrators, HSVP thereafter pass the speaking order.

The decision on said representations is thus, long drawn process and thus, mere submission of representation ought not to affect the process of auction as the sole purpose of filing of representations is to prevent the HSVP from utilizing its acquired land on one or the other pretext.

12. That it is submitted that prevention is better than cure and thus, the menace of encroachments can only be removed where the land is disposed of as per policy under the Haryana Shehri Vikas Pradhikaran Act, 1977. Hence, while monitoring the removal of encroachments, strenuous efforts have been put to review planning and re-planning of the acquired land. This process has contributed optimum utilization of acquired land as well as revenue generation for HSVP.

The details of the same is as under:-

Sr. No.	Zones	Urban Estates	Total area of newly planned/re-planned HSVP land (in acres)	Total Number of properties sold (religious buildings, schools, hospital sites, clinic sites, plots, GH sites, college)	Total Revenue Generated (Rupees)
1	Rohtak Zone	Rohtak	1951.575	342	4091864200
2		Panipat	397.162	192	3128082800
3		Sonepat	1281.56	44	1050697240
4		Jhajjar/ Bahadurgarh	1222.30	01	12413900
	Total		4852.597	579	8283058140
5	Panchkula Zone	Panchkula	970.26	298	1050722790
6		Ambala	17.93	01	4815000
7		Kurukshetra	100.26	01	13965000
8		Jagadhri	141.86	-	-
9		Karnal	55.01	124	384504190
10		Kaithal	-	-	-
	Total		1285.32	424	1454006980
11	Hisar Zone	Hisar	451.82	501	4574964700
12		Sirsa	13.662	-	-
13		Bhiwani	1.00	-	-
14		Charkhi Dadri	43.83	-	-
15		Fatehabad	61.1	-	-
16		Jind	18.67	-	-
	Total		590.082		4574964700
17	Gurugram Zone	Gurugram	1002.628	Residential Plots=394 N.H & Clinic-33 Hospital=02 SCO's, D.S.S.,	1331115430 0 2134234800

				Booths, Kiosks=422, Commercial Site=06 Group Housing=05 Institutional Site=12	1599601800 1701690520 0 3589749200 5745461190 0 4649901900
18		Rewari	587.88	Residential Plots=01	7893000
19		Pataudi	27.29	Residential Plots=43	251285500
	Total		1617.798		1000153376 00
20	Faridabad Zone	Faridabad	599.42	Residential Plots=894 Commercial (SCO, DSS, Booth & Kiosk=75 Hospital Nursing Home=2 Clinic=2 GH=2	1118050411 0 2803022200 214775000 42901900 35731800 1427025000
21		Palwal	50.0	-	-
	Total		649.42		1570396001 0
	Grand Total		8995.217 acres		1300313274 30 Say Rupees 13,000 crores

It is pertinent to mention here that the revenue generated from these properties which is around Rupees 13000 crores is a very small part of the planned land which we have achieved from this planning of land. We have created a planned land bank of more than Rupees 75,000 crores for future.”

ACTION(S) TAKEN

102. The directions (supra), as made by this Court, and, which as revealed (supra), are in the process of being complied with by the respondent(s) concerned. Therefore, thereby though the respondent-State has been galvanized into action rather for ensuring, that the requisite remedial measures are ensured to be promptly taken by it, for thereby bringing the

acquired lands to subserve the apposite public purpose. Nonetheless, the actions, which are in the process of being taken by the respondent-State, in compliance of the directions (supra), are yet required to be most promptly put into action. Therefore, the other functionaries also, as disclosed in above extracted paragraph 8 and 9, are also directed to take further action in pursuance to the above made directions.

103. In consequence, the actions proposed to be taken, be ensured to be so taken within three months from today, under intimation to this Court. As such, the above shall be construed to be a continuous mandamus, upon, the respondent-State and its functionaries, accordingly, with a direction to the Registry of this Court, to list the instant matters before this Court, as and when the apposite action takings are done, to be so revealed, thus through an affidavit being filed by the respondent(s) concerned, before this Court.

FINAL ORDER

104. As a consequence to the hereinabove made deliberations, this Court finds no merit in the claims raised by the writ petitioner(s). Therefore, all the writ petitions are dismissed, being devoid of merits.

105. All pending application(s) stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

20.10.2023
devinder

Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No