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

CWP-9620-2023

Date of decision: 17.07.2023

MALKHAN SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Ms. Apoorva Arya, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with

Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner has sought quashing of notification, as became issued under Section 4 of the Land Acquisition Act, 1894 issued, on 25.04.2008 (Annexure P-1), and, notification under Section 6 of the Land Acquisition Act, 1894, issued on 22.04.2009 (Annexure P-2), and, the award dated 21.04.2011 (Anneuxre P-3) passed under Section 9 of the Land Acquisition Act, on the premise, that neither the compensation has been received by the petitioner nor the possession of the land has been taken.

2. The learned counsel for the petitioner has vociferously argued, that there is a complete discrimination against the petitioner, in the acquisition of his land, especially when thereons the petitioner has constructed a residential house, given it being the policy of the respondent authority to thus not acquire those lands whereons constructions became raised. Therefore, he submits that the acquisition of the petitioner's house is in derogation of the apposite policy. He

has further stated that the respondent has adopted pick and choose policy, as the land of similarly situated persons have been released, whereas, the representation of the petitioner for releasing the land has not been considered.

3. On the other hand, the learned State counsel submits, that the present petition has been filed by concealing the material facts. Earlier the impugned acquisition notifications for acquiring the land measuring 1128 acres were challenged before this Court, thus in a bunch of 39 writ petitions, with the leading case being CWP-6166-2010, titled as “**Brahm Dutt and others V. State of Haryana and others**”, and the same was disposed of vide order dated 03.02.2011, thus with the hereinafter extracted directions:

“....In this view of the matter, we are of the view that wherever construction of the petitioners has been admitted by the respondents on the acquired land and recommendations were made for release of such lands by the Land Acquisition Collector are liable to be released and the acquisition proceedings against them are liable to be quashed subject to the conditions that such lands do not fall in the infrastructure facilities such as widening of road, green belt, ROW, global corridor and change of zones etc.

However, CWP No.8296 of 2010, where the land is required for road widening, is liable to be dismissed. CWP Nos.5493, 8654, 8710 of 2010 and 428 of 2011 are also liable to be dismissed as the land of the petitioners, which has been acquired, is required for green belt, global corridor and interchange facilities etc. CWP Nos.9919 and 9920 of 2010 are also liable to be dismissed as the acquired land falls in the 100 meter green belt.

In this view of the matter, we are of the view that the remaining writ petitions deserve to be allowed partly and the impugned notifications are liable to be set aside qua the petitioners to the extent of acquiring their lands on which structures were existing and were recommended for release by the Land Acquisition Officer except the land which is

required for development of infrastructure facilities as stated above.”

4. The aforesaid order was assailed before the Hon’ble Apex Court by the landowners by filing SLP(C) No.11019 of 2011, which was dismissed vide order dated 27.04.2011.

5. He further submitted that there was another round of litigation whereby a writ petition in the form of PIL was filed before the Hon’ble Apex Court thereby challenging the aforesaid impugned acquisition proceedings alongwith other set of acquisitions in WP(C)-113-2011, on the ground, that agricultural land became acquired in a discriminatory manner. It is also informed by the learned State counsel that initially there was no stay granted by the Hon’ble Apex Court. However, thereafter the petitioner therein moved IA in the said matter for seeking stay. An order in favour of the petitioner was drawn thereons, on 25.04.2011. The operative part of the said order reads as under:-

“...By way of ad-interim relief, the prayer claimed in paragraph 12(a) of the memorandum of special leave petition is granted till further orders....”

6. Thereafter, the above writ petition was transferred to this Court vide order dated 06.08.2014, and, the case was numbered as CWP-18940-2014, which is still in operation. The other petitions challenging acquisition proceedings were also pending before this Court, and, this Court vide order dated 06.08.2014 passed the following order.

“...1. At the outset, we are informed that the challenge to the provisions of the Special Economic Zone Act, 2005 is also under consideration before the Punjab & Haryana High Court in a large number of cases.

2. Having regard to the above, we transfer this writ petition to the Punjab & Haryana High Court to be heard along with CWP No.2251 of 2006, titled “Rajesh & others V. State of Haryana and others”. The Registry of the Punjab & Haryana

High Court, on receipt of the record, will renumber the writ petition and place before the Court for hearing and final disposal along with CWP No.2251 of 2006 and other group matters....”

7. Thereafter, all the petitions were decided by this Court vide order dated 02.12.2019, and, the following order was passed:-

“The matter was remanded to this court vide order dated August 06, 2014 passed by the Hon’ble Supreme Court in a case titled as ‘Fertile Land Protection Movement and others versus Union of India’ bearing WP(C) No.113 of 2011. Same reads as under:-

“At the outset, we are informed that the challenge to the provisions of the Special Economic Zone Act, 2005 is also under consideration before Punjab & Haryana High Court in a large number of cases.

2. Having regard to the above, we transfer this writ petition to the Punjab & Haryana High Court to be heard alongwith CWP-2251 of 2006, titled “Rajesh & Others vs. State of Haryana and Others”. The Registry of the Punjab & Haryana High Court, on receipt of the record, will renumber the writ petition and place before the Court for hearing and final disposal alongwith CWP No.2251 of 2006 and other group matters.”

In view of order passed in the connected petitions i.e. CWP Nos.9605 and 9629 of 2016, petitioners in the present PIL have no grouse.

In view of the above, present petition is hereby disposed of.”

8. He has further submitted that in the above pending litigations the stay on dispossession of all the landowners though also covered the impugned notification, but remained in operation only from 25.04.2011 till 02.12.2019. He

further submits that the petitioner enjoyed the possession over the lands during the pendency of these writ petitions, and, now after the dismissal of the petitions, the petitioner has again filed the present petition on the same grounds through concealing the facts mentioned above. He also brought the attention of this Court to para No.37 of the pleadings cast in the present petition, wherein the petitioner has stated that he has not filed any other such or similar petition either before this Court or before the Hon'ble Apex Court or before the Hon'ble Apex Court, except CWP-27578-2022, which was dismissed as withdrawn, but with liberty to file fresh vide order dated 02.12.2022. The relevant extract of para No.37 of the present petition reads as under:-

“37. That no such or similar petition has been filed by the petitioner either in this Hon'ble Court or in the Hon'ble Supreme Court of India except CWP-27578-2022 which was dismissed as withdrawn vide order dated 02.12.2022 by this Hon'ble Court. Copy of the order is annexed herewith as Annexure P-14 for the kind perusal of this Hon'ble Court”

9. On examining the entire facts relating to the present writ petition, it seems that the petitioner has not only concealed material facts from this Court, but also has misled this Court, by specifically stating on oath, that he has not challenged the impugned notification before this Court or before any other Court except filing CWP-27578-2022, besides also it evidently emerges that the issue which has been raised in the instant petition, thus has already been both considered, and, clinchingly decided.

10. The learned State counsel has further stated on instructions imparted to him by the official concerned, that the possession of the acquired land has already been assumed, and, the award amount also stands deposited, whereby there is a complete vestment of title of the acquired land in the

Acquiring Authority, and, consequent thereto there is a complete divestment of right, title and interest over the acquired land in the petitioner.

11. In view of the above, we do not find any reasons to interfere with the notifications which pertain respectively to the years 2008, 2009 and 2011, and, which have resulted in acquisition proceedings becoming completely terminated.

12. Hence, the present petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

17.07.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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