

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(I) CWP No. 19267 of 2007
Reserved on: 25.09.2023
Date of decision : 28.09.2023

HARNAM SINGH

-PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

-RESPONDENTS

(II) CWP-15402-2006

NARESH KUMAR AND ANR.

-PETITIONERS

V/S

STATE OF HARYANA AND ORS.

-RESPONDENTS

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

Present: Mr. Vijayveer Singh, Advocate for
Mr. Akshay Jindal, Advocate
for the petitioner (in CWP-19267-2007).

Mr. Amit Jain, Advocate
for the petitioners (in CWP-15402-2006).

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.

SURESHWAR THAKUR, J.

1. The challenge, as made in both these writ petitions, is respectively to the notifications as became respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), which became respectively issued on 24.07.2003 and on 22.07.2004, and, become

enclosed in Annexures P-2 and P-3 (in CWP-19267 of 2007), and, in Annexures P-3 and P-4 (in CWP-15402-2006). The further relief is for setting aside the Award No.3, as became drawn on 21.07.2006.

2. Since both these writ petitions arise from common notifications, and, are also covered by common thereto award(s), as became passed by the learned Land Acquisition Collector concerned, in terms of Section 11 of the Act of 1894, therefore, they are amenable for being decided through a common verdict. For brevity, the facts are being extracted from CWP-19267 of 2007.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

3. The above made challenge is grooved in the factum, that:- (i) the respondents concerned practicing invidious discrimination in subjecting the petitioner's lands to acquisition, despite theirs, vis-a-vis similarly situated lands of builders, making release of the latter's lands, thus a prayer is made for the petition lands becoming released from acquisition; (ii) though there is no specific prayer made in the writ petition for inviting, vis-a-vis the petitioner, the mandate enclosed in Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'), but yet an oral argument qua the petitioner becoming well enabled to claim the leverage thereof, is projected, before this Court.

REASONS FOR REJECTING THE SUBMISSIONS AND CLAIM OF THE PETITIONER

4. Though releases of lands, purportedly similarly situated to the present petitioner's acquired lands, were made by the respondents concerned, but on the above premise, the petitioner cannot claim release of his lands. The reason being, that if the above prayer was well rested in terms of objections filed under

Section 5-A of the Act of 1894 and also became grooved on the statutory parameters embodied in Section 48 of the Act of 1894, provisions whereof are extracted hereinafter. Resultantly, when significantly, thus the mandate of Section 48 of the Act of 1894, can become ably resorted to by the land-looser concerned but prior to the lawful termination of acquisition proceedings, through an award being made by the learned Collector concerned.

“48. Completion of acquisition not compulsory, but compensation to be awarded when not completed. - (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. (2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings there under, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land. (3) The provision of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.”

5. However, the above trite factum of objections, in terms of Section 5-A of the Act of 1894, becoming raised by the petitioner and the said objections encapsulating the statutory parameters, as enclosed in Section 48 of the Act of 1894, rather is completely amiss. Therefore, the non-availment of the above remedy by the petitioner, not only is a waiver and abandonment thereof by him, but also through concomitant thereto acquiescence, thus fully estops the petitioner from claiming the above relief. Resultantly, the factum of any purported invidious discrimination becoming practiced by the respondents concerned, in their releasing purportedly similarly situated lands to the entity(ies) concerned, and their subjecting the petition lands to acquisition, thus does not become a validly nursed grievance.

6. Be that as it may, since the releases of lands from acquisitions are to be well conceived, upon incisive contemplations of mind, being made by the acquiring authority concerned qua the necessity of theirs being subjected to acquisition. Moreover, when the said contemplation has to be well founded, upon, a well conceived layout plan rather becoming prepared by the engineering cell of the department concerned. Therefore, since in the reply furnished on affidavit to the writ petition, it has been categorically stated, that the acquired lands are required for facilitating a public purpose, inasmuch as, theirs becoming earmarked for public and semi-public utilities, namely, Government Administrative/Central Secretariat/District Officers/Law Courts etc. Therefore, when the layout plans relating to the creation of the public establishments (supra), on the acquired lands in the instant case, thus are drawn after deliberations being made by all responsible government functionaries concerned, including the judiciary. Therefore, the drawing of the layout plans cannot be termed arbitrary or capricious, nor also this Court is well entitled to, in exercise of its review jurisdiction, make any interference with the said drawn layout plans.

7. The effect of the above inference, is that, when the acquired lands are an insegregable component of an emergent public purpose, thereby their releases would prejudicially affect the relevant public purpose. Therefore, for ensuring that the relevant public purpose is not forestalled, resultantly, predominance is to be assigned to public interest, than to the individualistic interest of the land-looser concerned. In consequence, thereby too, the above ground of discrimination also pales into insignificance.

8. Though the learned counsel for the petitioner has orally addressed an argument before this Court, that since the twin statutory conditions, 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; as spelt out in *“Indore Development Authority v/s Manoharlal and Ors.”*, reported in (2020)8 SCC 129, have not been fulfilled, therefore, the acquisition proceedings, as became drawn in respect of the petitioner’s lands, be thus declared to become lapsed.

9. However, the above argument made by the learned counsel for the petitioner is meritless. The reason being, that it is clearly detailed in the reply, as becomes furnished to the writ petition, on affidavit of Manav Malik, Land Acquisition Collector, that the apposite discharging evidence becoming adduced, thus in respect of the twin statutory ingredients (supra), becomes embedded in the evident possession of the acquired lands, except the lands in respect whereof stay against dispossession was operative, rather becoming assumed through Rapat No.614 of 21.07.2006. Furthermore, it has also been detailed therein, that the compensation amount comprised in a sum of Rs.21,26,032/- became deposited before the learned A.D.J., Kurukshetra, vide DD No.812770 dated 04.03.2022, for its becoming available for being claimed to become released to the landowner(s) concerned.

10. Therefore, when even otherwise, there is evident completest affirmative satisfaction qua the twin statutory ingredients (supra), thus at the instance of the State of Haryana, thereby, the petitioner, who otherwise also has no locus standi, for reason (supra), to maintain the writ petition, rather cannot claim the benefit of the apposite lapsing statutory provision(s), as enclosed in Section 24(2) of the Act of 2013).

11. More so, when it has been declared in a verdict made by this

Court in CWP-15175-2023, titled '*The Press Employees and Friends Co-operative Group Housing Society Ltd. V. State of Haryana and others*' that the import of the above statutory parameters are extremely limited, and, confined to extreme emergent circumstances. Moreover, when it is also been spelt therein, that in case the acquired estate is an integral component of the developmental plan, and, is also an insegregable part of the public purpose, for which the acquired lands are subjected to acquisition, thereby the above statutory parameters of unessentiality, and, unviability retention of the petition lands, thus are unavailable to become ably canvassed by the writ petitioner.

12. Conspicuously upon vesting of ownership over the acquired lands, in the respondent concerned, thus happening, on issuance(s) of notification(s) (supra), thereby when the State becomes absolute owner of the acquired lands. Resultantly on investment of complete or absolute ownership over the acquired lands, in the respondent-State, thus makes it well empowered to within the ambit of the verdict rendered by Hon'ble Apex Court in the case of "*State of Kerala Vs. M.Bhaskaran Pillai*", AIR 1997 SC 2703, to even make sales of the acquired lands through public auction. Thus, in the event of it being not utilized, the exercisings of the above power by an absolute owner, rather is tenable, as thereby the auction monies as become fetched by the State of Haryana, thus would also result in theirs sub-serving some other public purpose(s). Therefore, except in a very rare or exceptional circumstances, inasmuch as, upon occurrence of *vis major* or upon exorbitant sums of compensation monies being determined, thus making their liquidations, to cause an onerous burden to the State exchequer, thus, thereby the statutory parameters of un-essentiality or unviability of retention of the

acquired lands, may become adopted by the State of Haryana. However, the above exceptions are not available on the records of this case.

13. In case, the acquisition notifications are quashed and set aside, as also the award is quashed and set aside, thereby the jurisprudential principle qua an absolute owner becoming entitled to utilize the acquired lands, thus thereby would become untenably whittled down. Resultantly, if only in respect of a parcel of the acquired lands, releases are sought, thereby but also necessitating the quashing of the acquisition proceedings, thereupon, there would also be an untenable declaration rather setting aside the investment of right, title and interest as owner over the petition lands, thus in the acquiring authority concerned. Therefore, but obviously, the said declaration is required to be not made. The same being antithetical to the jurisprudential principle of absolute ownership inhering in the acquiring authority concerned over the acquired lands.

14. In summa, this Court finds no merit in the instant writ petitions and is constrained to dismiss them. Accordingly, the writ petitions are dismissed, and, the impugned notification(s) and award are maintained and affirmed.

15. All pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

28.09.2023
devinder

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