

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 19978 of 2008 (O&M)

Reserved on : 13.9.2023

Date of Decision: 21.9.2023

The Sohana Co-operative Agricultural Service
Society Limited, Sohana

.....Petitioner

Versus

State of Punjab and others

....Respondents

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

Argued by: Mr. Naresh Kaushal, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Aneesh Chopra, Advocate for
Mr. Shekhar Verma, Advocate
for respondent No. 2.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner society craves for issuance of a writ in the nature of certiorari, thus for quashing the award made on 16.11.2008 (Annexure P-9). Moreover, the petitioner society also claims the making of a mandamus, upon the respondent concerned, to re-allot to it, the land measuring one kanal.

2. Before proceeding to determine the validity of the above claimed reliefs in the instant writ petition, it is of utmost importance to allude to the trite factum, that earlier the instant petition became dismissed by this Court through a verdict made thereons, on 27.11.2008. However, the aggrieved petitioner society instituted against the verdict (supra), Special Leave to Appeal (Civil) No. 9732/2009, before the Hon'ble Apex Court. The Hon'ble Apex Court disposed of the SLP (supra) in the hereinafter extracted

manner:-

“X X X X

In view of the above, the special leave petition is disposed of in the following terms:

1. *The impugned order is upheld insofar as the High Court negated the petitioner’s prayer for quashing the award.*
2. *The matter is remanded to the High Court for consideration of the plea of discrimination taken in paragraph 15 of the writ petition.*
3. *The parties may file additional affidavits and documents before the High Court within a period of eight weeks from today.*
4. *The petitioner shall not be entitled to revive its challenge to the legality of award dated 16.11.2008.*

x x x x”

3. A reading of the hereinabove extracted operative part of the verdict, drawn by the Hon’ble Apex Court on the SLP (supra), does reveal, that the Hon’ble Apex Court had upheld the dismissal order, as made by this Court, and, as related to the validity of the making of the award (supra).

4. However, the Hon’ble Apex Court yet remanded the lis to this Court only for considering the petitioner society’s plea of discrimination, as became taken by it in paragraph 15 of the instant writ petition. In addition, in respect of the above, the Hon’ble Apex Court permitted the litigants concerned, to file additional affidavits before this Court.

5. Both the petitioner as well as the respondent(s), in compliance to the above mandate, made upon them, have taken to furnish their additional affidavits.

6. A reading of reply, furnished to the instant petition, on behalf of co-respondent No. 2, unveils that the ground of discrimination, as raised by the petitioner in paragraph 15 of the instant petition, inasmuch as, the

acquired land of the petitioner society, is adjoining to/in between the land owned by certain educational, and, religious institutions, rather whose lands have not been acquired, is but not well grounded. It has been spoken in the said additional reply, that the petitioner society's acquired land is an integral part of the layout plan to which Annexure R-2, is assigned. Necessarily if the petitioner society's land is an integral component of the layout plan or of the development activity to be made, upon the acquired land, thereby this Court cannot, in the exercise of its review jurisdiction, displace the layout plan (supra), which rather has become prepared by the expert cell, thus employed for the relevant purpose by the acquiring authority.

7. Furthermore, it has been highlighted in the additional reply on affidavit, that since the agricultural lands, which occur in village Sohana, Mauli Baidwan, and, the adjoining thereto villages, have been urbanized, therefore, it has been stated in the additional reply on affidavit, that the objective of the petitioner society has been rendered redundant.

8. If so, the claim made in the instant writ petition rather for land(s) becoming allotted to the petitioner society in lieu of its acquired land, thus becomes completely foundered. Even otherwise, the said raised claim in the instant petition, thus cannot become assigned to the petitioner society, by this Court, as it would squarely fall outside the scope of remand of the lis made to this Court, by the Hon'ble Apex Court.

9. Though, the learned counsel for the petitioner has argued, that the respondent concerned, has practiced invidious discrimination against it, inasmuch as the respondent concerned vis-a-vis certain educational, and, religious institutions releasing their respectively acquired lands. However, the said argument also staggers.

10. The reason being that in respect of educational institutions,

namely, Rattan Professional Society Sohana, Arya High School Society, Sohana, and, Golden Bells Public School Society, Sohana, it has been detailed in the additional reply on affidavit, that they had proper infrastructure, buildings, and, have been imparting education to the students of the area. Consequently, it has been spoken in the said additional reply on affidavit, that after acquiring the estates of the above educational bodies, the acquired land became re-alloted to them, but subject to payment of external development charges, and, other such conditions. Since the said re-allotment is well founded, thus on the premise, that the educational institutions (supra) catering to the educational needs of the local residents, besides when it has been also candidly spoken in the said additional reply furnished by the respondent concerned, that re-allotment of the acquired lands, as was made to them, thus was made after a decision became drawn by the Finance and Accounts Committee of the respondent concerned. Therefore, the re-allotment of lands to the educational bodies (supra), after acquisitions being made thereof, thus is vindicable, the same having undergone the procedure established by law. If so, in the above event of re-allotment of the lands being made to the educational bodies (supra), after acquisitions of their lands, and, such re-allotments being made on payment of external development charges, thereby the petitioner society which otherwise, given the urbanization of the feeding agricultural lands, rather is thereby rendered redundant. Consequently, the petitioner society cannot plead, that its acquired land be treated at par with the educational bodies (supra), nor the petitioner society can well espouse, that unless its acquired lands are also released, thereby the respondents would fall within the mischief of theirs perpetrating invidious discrimination qua it.

of lands to a religious institution, namely Radha Soami Satsang is concerned, there is a complete detail in the additional reply on affidavit, that the said became occasioned respectively on account of the religious institution concerned, owning about 221 acres of land in the area, that was planned to become developed as Sectors 76-80. Moreover, since the lands of the religious institution concerned, is detailed in the additional affidavit to be scattered in the area (supra). Therefore, keeping in view the planning of the area, the entire estate of the religious institution measuring 221 acres, was acquired, and, in lieu thereof, a contiguous chunk of land measuring 200 acres was re-allotted in its favour. The reason for making of acquisition(s) of the above scattered area(s) of land(s) of the religious institution concerned, and, thereafter a contiguous chunk of land measuring 200 acres, becoming re-allotted in its favour, thus becomes founded, upon the factum, that the said consolidated chunks of land, as allotted to it in lieu of acquisition, being made of the scattered chunks of land measuring about 221 acres, rather was for ensuring the accommodation therein of a large congregation of followers. Furthermore, since the said re-allotment after acquisition of the estate of the religious institution, is made subject to the hereinafter extracted condition:-

- (a) *The allotment price in respect of the 200 acres of land would be exactly to the total land acquisition compensation amount, including the principal, solatium and up to date interest, including assessment of amount towards structures, trees etc.*
- (b) *The religious body would be paid compensation only for land in excess of 200 acres.*
- (c) *The body would give a written and unequivocal undertaking that they would not seek any enhancement in respect of this land.*

- (d) *Rupees 4 crore would be deducted from the land acquisition amount payable for the balance land.*
- (e) *The body shall not be permitted to build permanent residential accommodation for more than 100 persons, the FAR shall be 0.05 and building plans for fresh construction would be got sanctioned in accordance with by laws. The existing structures would be allowed to exist however, these would be counted towards the overall FAR.*

The said re-allotment was effected pursuant to the decision of Finance and Account Committee of the respondent-Development Authority vide Agenda item number 28.03."

12. Therefore, the said re-allotment to the regional institution concerned, but after acquisition of its estate rather scattered in different portions, thus cannot be deemed to be arbitrary or capricious, nor thereby the petitioner can well lay any claim for parity therewith.

13. Insofar as the plea of discrimination founded, upon the release of land to the Punjab Judges and Officers Rural Housing Building Co-operative Society is concerned, it is averred in the additional reply on affidavit, that the said society owned about 19 acres of land, which was purchased by it in the year 1996, in anticipation of Land Pooling Scheme, being advertised on 22.12.1996. However, since the said scheme was abandoned, therefore, keeping in view that the members of the society would not be adversely effected, it was decided to re-allot 75% of their area, but subject to payment of external development charges, and, other such conditions including the condition that no member of the society shall own a plot of more than 250 square yards. In addition, no commercial building was permitted to be constructed within the area. It is further detailed in the additional reply, that the re-allotment of the acquired lands to the society

concerned, was made pursuant to the decision made by the Finance and

Accounts Committee. Therefore, in view of the above, no parity therewith can also be claimed by the petitioner.

14. So far as the release of lands to Akal Ashram Colony is concerned, it is detailed in the additional reply on affidavit, that though it was an illegal colony where residential structures were in existence, therefore instead of uprooting the residents of the said colony, the competent authority decided to re-allot the land in favour of the said colony but subject to payment of external development charges, and, such other conditions. Therefore, no parity therewith can also be claimed by the petitioner.

Final Order

15. In summa, this Court does not find any merit in the instant petition, and, is constrained to dismiss it. Accordingly, the instant petition is dismissed. The impugned order is maintained and affirmed.

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

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

September 21, 2023
Gurpreet

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