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

CWP-14904-2021

Date of decision:30.11.2023

CHANDER PAL AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Sandeep Sharma, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. In respect of the writ lands, the petitioners had earlier instituted three writ petitions before this Court. Through the said writ petitions, a challenge was made to the issuance of the notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), besides a challenge was made to the award which was pronounced in pursuance thereof.

2. The notification issued under Section 4 read with Section 17 of the Act of 1894, was issued, on 14.08.2008, and, the award as passed in pursuance thereof was so passed, on 27.08.2010.

3. In the first writ petition bearing No.CWP-15315 of 2013, this Court drew a decision on July 19, 2013. The relevant portion of the decision recorded thereons, becomes extracted hereinafter.

“Having heard learned counsel for the parties, and keeping in view the plea taken by the petitioners that their acquired land is lying wasted/un-utilized as the public purpose for which it was acquired, has already been successfully achieved, we dispose of this writ petition with a direction to the Director General, Urban Estate Department, Haryana, to consider and decide the above mentioned claim of the petitioners by passing a speaking order within a period of four months from the date of receiving a certified copy of this order.”

4. A reading of the above extracted relevant directions, as carried in Annexure P-9 reveal, that a direction was made, upon the Director General, Urban Estate Department, Haryana to, keeping in view the fact that the petitioners argue, that their acquired land is lying wasted/un-utilized as the public purpose for which it was acquired, has been successfully achieved, thus consider and decide the claim of the petitioners for their acquired lands becoming released from acquisition.

5. In pursuance to the said decision a declining order was made. The said declining order is embodied in Annexure P-10.

6. The making of Annexure P-10, thus led the petitioners to re-access, this Court through theirs instituting CWP-5614-2014. The decision made thereons, is carried in Annexure P-11. The relevant portion of the direction, as made thereons becomes extracted hereinafter, and, a reading thereof unveils, that this Court had made observations, that if the Acquiring Authority failed to develop Sector 79 in due course of time whereby the strip of land owned by the petitioners remains unutilized, thereby a right was reserved to the petitioners to re-agitate the matter and seek release of the unutilized waste land.

“(3) Having heard learned counsel for the petitioners, we are of

the considered view that the writ petition is wholly premature at this stage. Since the acquisition was for construction of master plan roads of Sector 75 to 89 in Urban Estate Faridabad, it cannot be accepted that the respondents have not conceptualized the development of Commercial Sector 79. Suffice it would be to observe that if the respondents fail to develop Sector 79 in due course of time and thus, the strip of land owned by the petitioners remains unutilized, they might be well within some right to re-agitate the matter and seek release of the unutilized waste land.

(4) Consequently, we dismiss the writ petition at this stage as premature with liberty to the petitioners that if their land is not utilized for a public purpose in future and within some reasonable period, they may approach the competent authority for its release in accordance with law.”

7. Therefore, in view of the above rather liberty was reserved to the land losers concerned, to for the above purpose approach the Competent Authority. In pursuance to the said directions, the petitioners made a representation before the Competent Authority concerned. Since no decision was made thereons, thereby the petitioners again instituted a writ petition, thus bearing No.CWP-5467-2018. Through a decision made thereons, on 07.03.2018, the said writ petition was disposed of with a direction to the State of Haryana, Urban Estate Department, to consider and decide Annexure P-14, through making a speaking decision thereon. In pursuance to the decision (supra), being recorded by this Court, a declining order has been made through Annexure P-17 by the Competent Authority. The said declining order (Annexure P-17) is challenged in the instant petition, before this Court.

8. The substratum of the entire lis to the considered mind of this Court, is encapsulated in the directions/observations made by this Court in

Annexure P-11. Their plain reading reveals, that in case the Acquiring Authority concerned, fails to develop Sector 79, wherein, the acquired land is located, and, when thereby the acquired lands remain unutilized, thereby a right was reserved to the land losers concerned, to re-agitate the matter, and, seek release(s) of such unutilized waste lands. Therefore, it has to be discerned from the records, whether as a matter of fact, the acquired lands existing in Sector 79 were, on 25.03.2014, when Annexure P-11 was passed, or subsequent thereto, thus became subjected to utilization. In case from the records, it is discerned that either on 25.03.2014 or subsequent thereto, the acquired lands became subjected to lawful users, and/or, for the relevant public purpose, thereby the petitioners would become estopped, to claim, that they are yet entitled to claim the release(s) of their acquired lands, but on the premise that the said acquired lands remained unutilized.

9. For determining the above fact, it is deemed necessary to allude to the reply on affidavit furnished to the writ petition, by the respondents concerned. A reading of the relevant portion of the reply on affidavit which exist in paragraph 9, relevant portion whereof becomes extracted hereinafter reveals, that the planning as envisaged on the acquired strip of land is for raising of a CNG Gas Station, and, for raising of a petrol pump.

*“9. Xxx. It is submitted that in the present case the land of the petitioners partly falls in the alignment of 60.0 m wide sector dividing road of sector-79, 80, 12.0 m wide service road and marginal land along sector road in commercial sector-79, Faridabad and as per record, a site of **CNG Gas Station** stands approved on the said marginal land and a site of **Petrol Pump** has also been approved. It is also pertinent to mention here that in the present case the marginal land is throughout the road. Copy of approved circulation plan of sector 75 to 89, Faridabad*

bearing drg. No.DTP(F)2645/10 dated 20.12.2010 is annexed herewith as Annexure R-1.”

10. Moreover, it is also revealed that insofar as, the acquired lands, in the instant writ petition is concerned, the same has now become a part and parcel of the sectoral road concerned. Therefore, if the acquired land, as of now has become a part and parcel of the sectoral road concerned, thereby when it has, as such become utilized. Resultantly, the petitioners cannot on the basis of the above made observations by this Court in Annexure P-11, claim that the acquired lands are unutilized, and, that they are entitled to seek release(s) thereof.

11. Though, at the fag end learned counsel for the petitioners argues, that the contentions (supra), raised in the reply on affidavit furnished by the respondents concerned, are false. However, the said made argument involves a disputed question of fact, and, thus, it cannot be settled in the instant writ proceedings.

12. In the wake of the above, this Court finds no merit in the instant petition, hence the instant petition is dismissed.

13. However, the respondents may yet consider to provide access to the unacquired lands of the present petitioners which adjoins and abuts the acquired lands of the present petitioners. The said decision be made within a period of 2 months from today.

(SURESHWAR THAKUR)
JUDGE

30.11.2023

Ithlesh

(SUDEEPTI SHARMA)
JUDGE

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