

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 7064 of 2008 (O&M)

Reserved on : 4.9.2023

Date of Decision: 21.9.2023

Rajbir Singh

.....Petitioner

Versus

State of Haryana and others

....Respondents

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

Argued by: Mr. Akshay Bhan, Senior Advocate assisted by
Mr. Harsh Vasu Gupta, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

Mr. Vikas Chatrath, Advocate
for respondents No. 3 to 7.

SURESHWAR THAKUR, J.

1. A notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act of 1894') became issued on 1.1.2002 (Annexure P-2). The said notification was succeeded by a declaration made on 31.12.2002, under Section 6 of the Act of 1894 (Annexure P-4). An award in terms of Section 11 of the Act of 1894 was made on 29.12.2004.

2. The validity(ies) of the above respectively made notification, declaration, and, the award (supra) are challenged through the instant petition.

Submission of the learned senior counsel for the petitioner

3. The learned senior counsel for the petitioner, has challenged,

the above drawn proceedings, inter alia on the ground, that the respondents concerned, practicing invidious discrimination, inasmuch as theirs releasing the lands of similarly situated land losers concerned, whereas, the respondents concerned, neither exempting nor releasing the acquired estates of the present petitioners.

Reason for rejecting the above argument

4. Though, the learned senior counsel for the petitioner has vehemently argued for nullification of the above drawn motions, under the Act of 1894, but the said vigorous address made before this Court, thus warrants its becoming rejected.

5. The reason for drawing the above conclusion, stems from the factum, that the petitioner had earlier instituted CWP No. 11191 of 2007, whereby a challenge was laid to the statutory motions, as became drawn under the Act of 1894. However, through a decision made thereons, on 26.7.2007, this Court in the relevant paragraph of the verdict (supra), para whereof stands extracted hereinafter, had rather nullified the challenge made to the motions drawn under the Act of 1894.

“Petitioner is permitted to make a representation to the first respondent within a period of two weeks from the date of receipt of certified copy of this order. It is made clear that if any such representation is made by the petitioner, first respondent is directed to consider and dispose of the same, if it is permissible, in accordance with law within eight weeks thereafter.”

6. The impact thereof, is that, thereby the petitioner but becomes estopped to raise a challenge to the validity of the statutory motions (supra), as became drawn under the Act of 1894. Resultantly, the said challenge

appertaining to the validity of the drawing of the statutory motions (supra), at the instance of the petitioner, does but completely staggered.

7. Be that as it may, since the petitioner in the earlier writ petition (supra), had claimed parity with the other land losers concerned, qua whom the respondents concerned, had made exemptions or releases of their respective acquired lands. Resultantly for facilitating the petitioner to make a grievance before the competent authority concerned, he was thus permitted to raise a representation.

8. The representation, as moved by the present petitioner was rejected through an order drawn on 11.10.2007 (Annexure P-11). The reasons for rejecting the said representation *inter alia* becomes founded on the grounds, as mentioned in the relevant para, para whereof becomes extracted hereinafter.

“x x x x

The land in question was vacant at the time of acquisition and continues to be so even today. The land was acquired vide award dated 29.12.2004 and possession of the same stands handed over to HUDA. I have further gone through the record relating to release of land falling under Khasra No. 41/16. The same was released due to existing Samadhi located on the land whereas the land of the petitioner was vacant. The petitioner has himself admitted that he had planted polar and teak trees in the land. Hence, it is evident that no construction of any type existed on the land. There is no policy to release vacant land at any stage of acquisition. Only built-up structures or clusters of houses are released to avoid hardship to the land owners. As far as other structure/land released from acquisition is concerned, the Government had taken a decision to exclude these areas because they were thickly populated. Hence, there is no question of pick and choose in releasing the land.”

9. Though, the learned senior counsel argues, that the above assigned reasons are lacking in keenest application of mind to the subject matter concerned.

10. However, in view of its becoming openly pronounced, in the above extracted reasons rather declining the petitioner's claim for release or exemption of his acquired land, that his land was vacant at the time of acquisition. Therefore, when it is further voiced in the above declining reasons, that there is no policy to release the vacant land at any stage of acquisition, whereas, there is a policy only for releasing the built-up structures or cluster of houses. Resultantly, when in terms of the policy (supra), there occurs an interdiction against the release of the present petitioner's vacant lands from acquisition. Consequently, in case the vacant lands of the petitioner are released, or are exempted from acquisition, thereby breach would be caused to the relevant policy.

11. Bearing in mind the limited relief (supra), as became granted to the petitioner in his earlier writ petition bearing CWP No. 11191 of 2007. Moreover, when the respondent concerned, took to reject the petitioner's representation, as became moved by him, before the competent authority concerned, thus in terms of the liberty assigned to him in the order (supra), made by this Court. Therefore, when for reasons (supra), the declining order, as made upon the apposite representation, thus has been concluded to be well informed. In consequence, the instant writ petition, whereby, a challenge is thrown to the said declining order, made on the petitioner's representation, does not require any interference being made by this Court.

Final Order

12. 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 annexures are maintained and affirmed.

13. 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