

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

(1)

CWP-18551-2021

Jitender Singh & others

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

(2)

CWP-1824-2023

Vikram Singh Tanwar

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

Decided on : 31.01.2023

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr.Shailendra Jain, Senior Advocate
with Mr.Jagtar Singh, Advocate
for the petitioners in CWP-18551-2021.

Mr.Sunil Garg, Advocate
for the petitioner in CWP-1824-2023.

Mr.Ankur Mittal, Addl.A.G., Haryana
and Mr.Saurabh Mago, AAG, Haryana.

G.S. Sandhawal, J.

The present order shall dispose of two writ petitions bearing CWP-18551-2021 titled *Jitender Singh & others Vs. State of Haryana & others* and CWP-1824-2023 titled *Vikram Singh Tanwar Vs. State of Haryana & others*. Facts have been taken from CWP-18551-2021 since the notification in question is the same which is subject matter of challenge and pleadings are complete in the said case, the petitioner in CWP-1824-2023 is similarly placed as the other writ petitioners.

The prayer made in the writ petition, filed under Article 226/227 of the Constitution of India is for release of the land which was acquired vide notification dated 04.06.1986 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') for the residential and commercial area by the erstwhile HUDA for Villages Bhiwani Lohar, Hadbast No.22 and Palwas, Hadbast No.12. The said notification was followed up by notification under Section 6 of the Act dated 15.04.1987 (Annexure P-4) and the award dated 10.11.1987 (Annexure P-5) which are also subject matter of challenge. The relief sought is on the ground that similarly situated persons whose land was released in view of the order dated 08.04.2011 (Annexure P-6) passed in CWP-3418-1987 titled *Capt. Bhanwar Singh & others V s. State of Haryana & others* and order dated 11.03.2011 (Annexure P-9) passed in CWP-3419-1987 titled *Banwari Lal & others Vs. State of Haryana & others*. Reliance is placed upon the liberty granted by the Apex Court in SLP (Civil) (CC 13010/2011) titled *Raghubir Singh (D) through LRs & others Vs. State of Haryana & others* on 19.08.2011 (Annexure P-8).

A perusal of the said orders would go on to show that the predecessor-in-interest of the petitioners challenging the same acquisition of land in CWP-3457-1987 titled *Raghubir Singh & others Vs. State of Haryana & others* which had been dismissed on 08.04.2017 (Annexure P-6) for the reasons given in Capt. Bhanwar Singh (supra). Having failed to get any relief from the Apex Court, on 19.08.2011 (Annexure P-8) counsel had withdrawn the Special Leave Petition to approach the Government for grant of relief in terms of order dated 11.03.2011 passed in CWP-3419-1987. The representation was to be filed within a period of 4 weeks and

were to be decided on their own merits. Accordingly, representation dated 15.09.2011 (Annexure P-10) was followed up in March, 2014.

A perusal of the said representation would go on to show that parity was sought as the ones granted to the writ petitioners in CWP-3418 & 3419-1987. Apparently, the same was not followed up and possession was taken by the respondents on 04.01.2013. Thereafter, in March, 2014, representation was filed for release of the land in view of Section 24 of the Right to Fair Compensation & Transparency in Land Acquisition Rehabilitation & Resettlement Act, 2013 (for short, the '2013 Act'), alleging that they had not received any amount of compensation.

Resultantly, CWP-15268-2014 titled *Vikram Singh & others Vs. State of Haryana & others*, was filed alleging the said fact and also alleging that physical possession was with them, which was disposed of at the initial stage on 04.08.2014 (Annexure P-15), to consider the representations filed and by noticing that other landowners had resorted to file series of similar writ petitions for the same relief, one such case being CWP-15238-2014 titled *Ajit Singh & others Vs. State of Haryana & others*. The competent authority, keeping in view the directions issued by the Co-ordinate Bench vide a detailed order dated 14.09.2018 (Annexure P-17), specifically noticed that possession of the land had been taken after the announcement of the award and the land was lying vacant. It was further noted that as per the report received, the compensation for the petitioners was lying unpaid, but more than 90% of the landowners had received compensation for the acquired land. Maximum area of the sector had been developed and constructions had been raised by the plot-holders and the land in question stands planned and is a part of a developed sector and the land could not be recommended to be released. It was also noticed

that opportunity of hearing was given to them but they did not put in appearance and accordingly, claim of the petitioners was rejected being not covered under Section 24(2) of the 2013 Act. The order passed by the Zonal Administrator-cum-Additional Director, Urban Estates, Hisar reads as under:

“2. As per record, the fathers of petitioners were owners of the land in question situated in the village Bhiwani Lohar. The land was notified vide notification under section 4 dated 04.06.1986 and the declaration under section 6 was issued on 15.04.1987. After declaration, the Award No.7 dated 10.11.1987 was announced for development of residential and commercial Sector-13, Bhiwani and the possession of the land was taken and handed over to the Estate Officer, HUDA, Bhiwani on the same day of Award except the land involved in Civil Writ Petitions. The land in question was lying vacant at the time of issuance of notification under section 4 of the Act.

3. The report in this case was sent by Land Acquisition Officer, Hisar on 08.09.2014 and as per report, as far as the representation under section 24(2) of the LARR Act, 2013 is concerned, in this regard, it is submitted that the payment of the compensation of the petitioner is lying unpaid in the office but more than 90% land owners have received their amount of compensation for the acquired land. Maximum area of this sector has been developed and constructions have been raised by the plot holders except the land involved in Civil Writ Petition No.3418, 3419, 3457 of 1987 and 14244 of 1993. Apart from this, it is also submitted that the possession of the land of the petitioners was not taken by the then Land Acquisition Collector, Hisar in the year 1987 as there was stay order from the Hon'ble High Court. After dismissal of the Civil Writ Petition No.3457 of 1987 vide order dated 08.04.2011, the possession of the land of the petitioners has been taken vide rapat No.141 dated 04.01.2013 and handed over to Estate Officer, HUDA, Bhiwani. The report sent by Land Acquisition Collector, Hisar was perused by the Chief Administrator, HUDA, Panchkula and recommended that the land in question stands planned and is a part of a developed sector. Hence, applicant's land is not recommended to be released.

4. The petitioners were granted opportunity of hearing on 26.02.2015 & 08.04.2016 by the ACSUE. The petitioners and concerned officers from field offices attended the hearing on 26.02.2015 but again on 08.04.2016, the petitioners did not attend the hearing. After perusal of the report of Chief Administrator, HUDA, the Government has considered the report and accepted the recommendation of the Chief Administrator not to release the land of the petitioners. The office of the Director, Urban Estates Department Haryana, Panchkula has asked to issue the detailed speaking order accordingly as per Government decision in view of the Hon'ble High Court directions.

5. In view of the above facts, 90% compensation of Award has been received by the land owners and possession of the land in question has already been taken and handed over to the Estate Officer, HUDA, Bhiwani, hence, the claim of the petitioners not covered under section 24(2) of the new Act, 2013 and the same is rejected. The order is being issued accordingly. The petitioners be informed.”

The petitioners herein being satisfied with the said rejection did not prefer any proceedings and have chosen to file the first writ petition only in the year 2021 after a period of three years whereas the other writ petition has now been filed by Vikram Singh Tanwar, another co-sharer in the year 2023. A perusal of the parity issue which was sought to be raised would go on to show that the benefit was granted at that point of time to the other landowners in CWP-3419-1987 (Banwari Lal) (supra) on 11.03.2011 (Annexure P-9) on account of the fact that there were some constructions in existence in Khasra No.17 while noting that other portions of the land which were lying vacant and part of sector land could not be released while giving the benefit to persons who had raised constructions. Relevant portion of the order dated 11.03.2011 reads as under:

“A site plan was put on record showing dimensions of the land released under acquisition. As regards the land which is the subject matter of the acquisition in these two writ petitions, it was

clearly mentioned in the letter referred to above that the land falling in Khasra No.109//18/3 min. and 23/1 min is a part of sector road alignment and as such it cannot be released. Rest of the land was released from acquisition except the area falling under sector roads as mentioned in paragraph (11) of the letter dated 14.2.2011. We feel that in view of the above order passed by the Authorities, grievance of the petitioners stands satisfied.

Sh.RM Singh, counsel for the petitioners only states that in the land falling in Khasra No.17 construction is in existence if that is so, the owners of that land may take up the matter with the Authorities concerned for release of their land. We are hopeful that the relief which was granted to the similarly situated persons, will also be granted to the occupants/owners of the land falling in Khasra No.17.

These writ petitions stand disposed of.”

The said relief had already been granted when the petitioners’ case was decided subsequently on 08.04.2021 and the same Bench which was dealing with the said cases of landowners had noticed that in the writ petitions filed by the present petitioners, a large number of petitioners who were co-sharers had withdrawn the writ petitions after accepting the compensation after passing of the award except petitioners No.13, 14, 29 to 32, 35 & 41. It was accordingly noted that the land was lying vacant and the stand of the State was that release of the land will affect road alignment and establishment of other public utility services. Resultantly, the writ petition was dismissed by observing as under:

“It is an admitted fact that the land involved in CWP No.3457 of 1987 was lying vacant when notification under Section 4 of the Act was issued. In reply filed, it is stated that if released, it will affect the road alignment and also Scheme to establish many other public utility services. In that writ petition, most of the petitioners have also withdrawn their writ petition.

In view of facts mentioned above, these writ petitions are disposed of. Petitioner No.1 in CWP No.3418 of 1987 will get benefit of the order now passed in their favour on 30.12.2010,

releasing 3274 square yard of his land. So far as petitioner No.6 in this writ petition and petitioner Nos.13, 14, 29 to 32, 35 and 41 in CWP No.3457 of 1987 are concerned, in view of a fact that release of their land will affect road alignment and establishment of other public utility services, as such, no relief can be granted to them.”

Apparently the stand of the State also which has come on record through the order of the Land Acquisition Collector dated 14.09.2018 would go on to show that the reason for the non release at the initial stage was that the land of the father of the petitioners was lying vacant and would affect the road alignment and other public utility sectors. Similar is the status report filed by Rajesh Khoth, Land Acquisition Collector, Urban Estates Department, Haryana Hisar, wherein it was mentioned that the benefit of release which was earlier granted to the land falling in Khasra No.109//17 was on account of the fact that there were 24 structures existing thereon and were surrounded by built-up structures. It has further been averred that 75% of the sector has been developed and the rest of the development had been hindered due to the litigation. It has also been mentioned that the development works of construction of roads (motorable upto WBM except black top), providing water supply, sewerage and SWD system has been completed in front of 132 Nos. plots and ready for floatation/e-auction and the same has also been intimated to Estate Officer, HSVP, Bhiwani by SDE HSVP Bhiwani on 02.03.2022. The said fact would also be clear from the photographs (Annexure P-12) placed on record.

Thus, from the above sequence of events, it would be clear that the petitioners are differently placed from the persons whose benefit of release had been granted on an earlier point of time and they had never successfully pursued their representation dated 15.09.2011 and taken a

chance to resort to the relief of lapse of land which had led to the passing of the order dated 14.09.2019. In the intervening period also, possession had been taken on 04.01.2013. Keeping in view the above, we are of the considered opinion, after examining the site-plan also that apart from various plots which would be badly affected, the alignment of the road would also be affected which is the specific stand of the State.

In such circumstances, in the absence of any construction raised, the petitioners cannot claim any parity with the persons who had got relief at an earlier point of time which has also been stressed by the Senior Counsel. Even from the photographs (Annexure P-12) which have been appended would go on to show that the petitioners' land is lying vacant whereas the benefit which had been granted in CWP-3418-1987 (Capt. Bhanwar Singh) (supra) was where construction had been raised. In such circumstances, the authorities had granted the benefit and therefore, the petitioners not being placed at the same position, cannot claim that there has been any unequal treatment to them.

In view of the above discussion, we do not find any ground to interfere in the orders passed by the authorities below declining the release and resultantly, the present writ petitions are hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

31.01.2023
Sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes/No.
Whether Reportable :	Yes/No