

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCM-3677-CWP-2022 in/and
CWP-1685-2018 (O&M
Date of Decision: 01.03.2023

Hari Singh and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWANPresent: Mr. Rishi Lal, Advocate, for
Mr. Kamal Mor, Advocate,
for the petitioners.Mr. Ankur Mittal, Addl, A.G., Haryana, with
Mr. Saurabh Mago, A.A.G., Haryana.

G.S.SANDHAWALIA, J. (ORAL)

1. The matter was adjourned *sine die* on 01.11.2019 keeping in view the pendency of the issue before the Apex Court. Thereafter, on account of application, i.e CM-3677-CWP-2022 for staying the operation of the public notice (Annexure P-9) and new public notice (Annexure P-11) the matter was listed. Accordingly, the main petition is also taken up on Board for hearing.

2. In the present petition, directions are sought to release the land of the petitioners under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as the Act of 2013).

3. Apparently, it has been pleaded that the petitioners filed CWP-3507-2006, titled **Maha Singh and others vs. State of Haryana and another**, on the basis of which they seek some concession. That writ petition was filed by another family, as such, and the memo of parties were Maha Singh, Rohtash and Kanwar Singh and the present petitioners were not the writ petitioners in the said case. The petitioners claim that they were owner of 'Khasra' No. 310/5/2 and 310/1/1 (Approximately 450 Square yard) and there was residential house and shops prior to issuance of Section 4 notification and the respondents have not paid any compensation till date and they are in physical possession and thus, being in possession, now seek the release of the land under Section 24 (2) of the Act of 2013.

4. The writ petition was apparently filed when public notice was issued that they were in possession of part of the land which belonged firstly to HUDA now HSVP and since they had done illegal encroachment were directed to vacate the land within 24 hours (Annexure P-9).

5. The written statement now filed would go on to show that since the matter is now covered in view of the judgment of the Constitution Bench of the Hon'ble Supreme Court in **Indore Development Authority vs. Manoharlal and others** AIR 2020 SC 1496, the writ present petition is liable to be dismissed, as the petitioners are not in a position to press their claim under Section 24 (2) of the Act of 2013.

6. Learned counsel appearing for the petitioners cannot controvert the said legal position.

7. Further the State's stand is that the land was not acquired qua Khasra No. 310/5/2 (due to license vide a letter No. 10600 dated

23.11.2004) and for Khasra No. 310/1/1, notification was issued on 27.11.2003 for development and utilization of land as residential-cum-commercial and institutional area for Sector 48, Gurugram. The petitioner No. 1 was not the owner of the subsequent '*Khasra*' No. 310/1/1 but the father of petitioner No. 2, Mange Ram, was the owner. It has been averred that the land is required for public purpose namely, residential, commercial and institutional area for Sector 48, Gurugram and affects the site of 'Green belt' along with Sohna Road. The possession was handed over to HUDA now HSVP, vide '*Rapat*' No. 55, dated 29.09.2009 and compensation has also been taken by the petitioners. There is no demarcation report to support the contentions of the appellant to show that the respondents intend to take actual possession of any such site which is part of '*Khasra*' No. 310/5/2, which was not part of acquisition. Neither any replication has been filed to controvert the stand taken by the respondents.

8. It is specified that father of petitioner No. 2, Mange Ram was the owner of '*Khasra*' No. 310/1/1 only at the time of Section 4 notification and petitioner No. 1 is not the owner and the compensation amount is lying deposited in the account of the Land Acquisition Collector. It is thus, the stand of the respondent that the status of the petitioners on the land is of trespassers and as per Paragraph No. 23 of the petition, they have admitted that the notice was served on 27.11.2017 upon them apparently, which led to the filing of the writ petition in the year 2018. It has been further stated that for Award No. 19 for the year 2006-07 for the land measuring 62.65 acres in Village Islamapur, '*Hadbast*' No. 97, Tehsil and District, Gurugram, entire amount of compensation had already been tendered.

Perusal of the Award dated 22.11.2006 (Annexure P-3) would go on to show that the said '*Khasra*' No. 310/1/1 have been acquired which is not subject matter of challenge on merits also and cannot be at this belated stage.

9. The petitioners have filed no replication as such.

10. Keeping in view the above, once the land is required for the Green belt along with Sohna Road and the acquisition under Section 6 was way back back in the year 2004 and even possession has been taken by the State vide '*Rapat*' No. 55 on 29.09.2009, the land stands vested with the State, after passing of the Award dated 22.11.2006.

11. In such circumstances, it is apparent that the petitioners are merely trespassers on the land which belonged to the State and therefore, they cannot claim any right in it and vested in it on passing of the award.

12. Keeping in view the above, we do not find any ground is made out to pass any order regarding lapsing of the proceedings in view of the law settled down by Supreme Court.

13. The petition is consequently, dismissed.

14. Pending miscellaneous application (s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

March 01, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking

Yes

Whether Reportable

No