

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCM-3675-CWP-2022 and
CM-8107-CWP-2022 in/and
CWP-1716-2018 (O&M)
Date of Decision: 01.03.2023

Maha Singh and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWANPresent: Mr. Tushar Sharma, 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 earlier was adjourned *sine die* on 01.11.2019 keeping in view the pendency of the issue before the Apex Court. Thereafter, two applications, i.e. CM-3675-CWP-2022 and CM-8107-CWP-2022 have been listed, i.e. one for staying the operation of the public notice (Annexure P-9) and new public notice (Annexure P-11), and another for placing on record an additional affidavit of petitioner No. 2, Rohtash, respectively. However, with the consent of both the parties, 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. The acquisition in question was set into motion on 27.11.2003 (Annexure P-1) followed up by Section 6 notification on 24.11.2004 (Annexure P-2). The Award was passed on 22.11.2006 (Annexure P-3). The acquisition is for the purposes of utilization of land for development of residential, Commercial and Institutional for Sector 48 at Gurugram comprising of four villages. The land is stated to be situated in Village Islampur, 'Hadbast' No. 97 in the present case. In an earlier round of litigation in CWP-3507-2006, Maha Singh and others vs. State of Haryana and another, the following order was passed by this Court on 20.05.2008 (Annexure P-4):-

“An affidavit of the Land Acquisition Collector, Urban Estate, Haryana, Gurgaon, has been filed in the Court today, a copy thereof has been furnished to the learned counsel for the petitioners. The land of the petitioners is comprised in khsara Nos.318(0-13-0), 354(0-6-0) and 361/1. The respondents have released the area comprised in Khasra No. 318 (0-8- 0) record (0-10-0)except khasra No. 354 falling in Green belt and service road. This satisfies the claim of the petitioners. Accordingly, the writ petition is disposed of.”

4. The present writ petition was thereafter, filed when apparently notice was issued that they continued to be in unauthorised possession of the part of the land which belonged to HUDA and there was an illegal encroachment as they were asked to vacate as per Annexure P-9.

5. Learned counsel for the petitioners has very fairly conceded that since the matter is now covered against them, 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, they are not in a position to press their claim under Section 24 (2) of the Act of 2013.

6. His contention however is while referring to the additional affidavit filed vide CM-8107-CWP-2022, is now limited to '*Khasra*' No. 354 which measures 6 '*Biswas*'. As per the additional affidavit filed, he has admitted that the HSVP has demolished part of the construction raised on '*Khasra*' No. 354 during the pendency of the litigation since there was no interim order. The photographs as such have also been attached as Annexure P-13. He has also placed on record the maps as Annexures P-14 and P-15 to show that the land falling within the 'Green Belt' in the road has been coloured as 'Red' colour, whereas the remaining land of the petitioners out of '*Khasra*' No. 354 has been shown in 'Green' colour. It is, thus, their case that part of the said land in '*Khasra*' No. 354 is neither part of the road or the service lane nor the 'Green Belt' and the said portion could not be required by the State for the purpose of 'Green Belt' or service road and the portion as such cannot be utilised for any other purpose. Thus, he claims the release of the said portion shown in 'Green' in Annexure P-15.

7. Keeping in view the above facts, it would be a matter to be decided by the Authorities at the base level whether the portion shown in 'Green' can be utilised by them or it would be of no use since it falls

beyond the 'Green belt' of the road, and has no independent approach.

8. In such circumstances, we are of the considered opinion that it is open to the petitioners to file a detailed representation keeping in view the provisions of Section 101-A of the Act of 2013, before the respondent-authorities for consideration of their limited claim as summarized above.

9. In case, they do so within a period of four weeks from today, the respondents shall take a call on the same and pass a speaking order within a period of three months thereafter.

10. The writ petition is accordingly disposed of with the aforesaid liberty.

11. 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