

114

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16822-2023

Date of decision:16.08.2023

SALMU DEEN AND ANR

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Rajnish K. Gupta, Advocate with
Mr. Lakhwinder Ram, Advocate and
Mr. Sachin Saini, Advocate
for the petitioners.

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

SURESHWAR THAKUR, J. (ORAL)

1. Reply on affidavit to the petition has been instituted on behalf of respondent No.3, which is taken on record.
2. The relief made in the instant petition relates to a mandamus being made upon the respondent concerned, to implement Annexure P-6. Annexure P-6 is a letter addressed by the Deputy Superintendent for Haryana Shehri Vikas Pradhikaran, Panchkula to the Chief Town Planner, HSVP, Panchkula. The subject matter of the said annexure purportedly relates to the petitioners' lands becoming released from acquisition. Therefore, it appears that the said speaking made in Annexure P-6, is premised on the provisions of Section 101A of the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013, as became engrafted therein, through the Haryana Act No.21 of 2018, and, which was assigned restrospective effect from the year 2014.

3. In the light of the above limited nature of mandamus, being asked for in the instant writ petition, this Court does not deem it fit, and, appropriate to at all to deal with the issue relating to the inapplicability or the applicability of the mandate of the Hon'ble Apex Court, as pronounced in “Indore Development Authority v/s Manoharlal and Ors.”, reported in (2020)8 SCC 129 nor this Court deems fit to order for the acquisitions, as were made of the petition lands, thus through invoking of the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), rather being declared to become lapsed.

4. Today, learned State counsel has placed on record a detailed reply on affidavit to the writ petition. Uncontestedly the present petitioners are *gair marusi* over the acquired lands, and, in view of the status (*supra*), of the petitioners over the acquired lands, though thus they became capacitated to receive compensation in respect of the acquired lands. However, it is stated in the reply on affidavit, that the compensation, as became determined in respect qua the acquired lands, thus became also determined in respect of the present petitioners, *dehors* theirs holding a very limited status (*supra*), over the acquired lands.

5. The holding of the above limited status by the petitioners over the acquired lands, especially when on initiation of acquisition proceedings under the Act of 1894, there is complete divestment of right, title and interest over the acquired lands, even of the landowners, thereby any *gair marusi* under the landowners (*supra*), rather cannot claim, that the lands in respect whereof, he was holding a limited status under his landowner, thus be ordered to become released from acquisition. More so, also when though the said right is available to be

recoursed by the landowners concerned, yet the said right rather remained unrecoursed by the landowners concerned, besides also it has been stated at the bar, that they have received the compensation amounts, as became determined by the Collector concerned, in terms of Section 11 of the Act of 1894.

6. Be that as it may, there is also a reference in paragraph 11 of the reply on affidavit, paragraph whereof stands hereinafter, that the acquired lands are a part of the approved layout plan.

“11. That it is further respectfully submitted that as per approved layout plan of Sector 1, 3, 4, 4A and 5, Pinjore bearing Drg. No.1424/2017 dated 18.07.2017/22.04.2019, the land in question i.e. Khasra no.364 of revenue estate of village Islam Nagar Tehsil Kalka District Panchkula falls in affects the planning of 24 meter wide road of Sector 4A, Pinjore. Considering the essentiality of the land in question, it cannot be released from acquisition proceedings.”

7. Therefore, even bearing in mind the trite factum qua the acquired lands becoming declared to be a part of the approved layout plan, thus when there is a necessity of utilization of the acquired lands rather for furthering the apposite public purpose. Consequently, at this stage, it cannot be argued by the learned counsel for the petitioners, that yet their acquired lands are both unessential or unviable for the apposite public purpose.

9. Since the above portrayal in the above extracted paragraph of the reply on affidavit, is deemed to have a presumption of truth attached thereto, inasmuch as, the same being made on an objective application of mind, to the necessity of retention of the acquired lands, whereby this Court, especially also when the petitioners rather hold only a limited status (supra), over the petition lands, thus are incapacitated, to raise any valid argument before this Court, for the denotification

of the writ lands, but obviously deems it fit to declare, that the acquired lands are both viable or essential for the relevant public purpose.

10. This Court finds no merit in the instant petition, hence the same is dismissed.

(SURESHWAR THAKUR)
JUDGE

16.08.2023

(KULDEEP TIWARI)
JUDGE

Ithlesh

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