

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(I) CWP No. 7646 of 2016
Reserved on: 31.08.2023
Date of decision: 06.09.2023

SURENDER KUMAR AND ORS. -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(II) CWP-8377-2014 (O&M)

MANGAT AND ORS. -PETITIONERS

V/S

STATE OF HARYANA AND ORS. -RESPONDENTS

(III) CWP-8378-2014

DHANI RAM AND ORS. -PETITIONERS

V/S

STATE OF HARYANA AND ORS. -RESPONDENTS

(IV) CWP-8412-2014

RAM PHAL AND ORS. -PETITIONERS

V/S

STATE OF HARYANA AND OTHERS -RESPONDENTS

(V) CWP-21139-2014

KIDARA AND ANR. -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(VI) CWP-21140-2014 (O&M)

KAMLA DEVI -PETITIONERS

V/S

STATE OF HARYANA & ORS. -RESPONDENTS

(VII) CWP-21192-2014 (O&M)

MIR SINGH AND ORS.

-PETITIONERS

V/S

STATE OF HARYANA & ORS.

-RESPONDENTS

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

Present: Mr. N.C. Kinra, Advocate with
Mr. Harsh Kinra, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana and
Ms. Kushaldeep Kaur, Advocate.

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep Kaur Manchanda, Advocate
for the respondent- HSVP.

SURESHWAR THAKUR, J.

1. Since all the writ petitions arise from a common notification, and, a common declaration, as became issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), and, as became respectively issued on 15.12.2006 and on 14.12.2007. Moreover, since all the writ petitions are covered by common thereto award(s), as became passed by the learned Land Acquisition Collector concerned on 30.11.2009, in terms of Section 11 of the Act of 1894, therefore, they are all amenable for being decided through a common verdict. For brevity, the facts are being extracted from the lead writ petition, i.e. CWP-7646-2016.

2. The primary ground, as raised in the writ petition for quashing of the notification and declaration (supra), becomes founded upon:- (a) invidious discrimination becoming practiced by the respondent(s) concerned in not

exempting the disputed lands from acquisition, despite similarly situated lands becoming released from acquisition; (b) that in terms of Section 101-A, as occurs in The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and, as became inserted therein through Haryana Act No.21 of 2018, thus the petition lands being declared to be “unviable” and/or “non-essential” for acquisition.

3. Apparently, the petitioners stake a claim for the acquired lands becoming exempted from acquisition, thus in terms of a policy dated 24.1.2011. However, in the said policy, the claim(s) for releases from acquisition, thus could become well considered, only when objections under Section 5-A of the Act of 1894 were filed by the aggrieved estate-holders concerned, thus before the learned Collector concerned. Moreover, the further imperative condition, as enshrined in the said policy, makes speakings that the construction, if any, thus proposed to be exempted from acquisition, rather is required to be cogently established to be raised on the acquired lands, but before the issuance of a notification under Section 4 of the Act of 1894.

4. It is in the above regard, a reading of reply on affidavit of Rajender Kumar, Land Acquisition Collector, Urban Estate, Rohtak, which occurs at page No.100 of the paper book, reveals that the said objections never became filed by the petitioners. Therefore, for the non filing of the said objections, the present petitioners cannot claim the benefit of the policy (supra), as the filing of the apposite thereunders objections, but was imperative for the petitioners, for theirs ably urging before this Court, that despite the relevant constructions evidently existing on the acquired lands, prior to the issuance of the notification under Section 4 of the Act of 1894, yet the said

constructions becoming not considered to be released from acquisition, thus in terms of the apposite policy, nor also the petitioners can argue before this Court, that the acquired lands be released from acquisition, thus on the premise, that the other purported similarly situated lands vis-a-vis the petitioners' lands, rather becoming released from acquisition.

5. Since the objections, as stated (*supra*), became not filed, therefore it brings forth an inevitable conclusion from this Court, that thereby even the purported ground qua perpetration of invidious discrimination by the respondent(s) concerned, as, comprised in theirs not releasing the petition lands, despite theirs releasing the acquired lands of similarly situated estate-holders concerned, but is a completely unworthy submission, and, is liable to be rejected.

6. It is unfolded in the reply (*supra*), as becomes instituted to the writ petition by the respondent(s) concerned, that since the petition lands fall in the middle of the residential sector 36-A, Rohtak, therefore they are completely essential for furthering the relevant public purpose. Therefore, for advancing the relevant public purpose, but irrespective of the benefit of the policy (*supra*), becoming assumingly not granted to the petitioners, yet the imperative or dire necessity of the lands being subjected to public use, or, for a public purpose, to the considered mind of this Court is to prevail, or, is to predominate, vis-a-vis even the claim, if any, of the petitioners, to thus in terms of the policy (*supra*) rather secure releases of their acquired land(s).

7. Since the above imperative necessity of retention of the acquired lands for theirs subserving the public purpose concerned, is but imperative, thereupon too, in terms of the statutory provisions (*supra*) also, the writ lands

cannot be declared to be “unviable” or “non-essential”, nor any application subjudice for the above purpose, can be directed to be forthwith decided, nor any further permission can be granted to the petitioners to raise a representation in terms of the statutory provisions (supra), before the statutory authority concerned.

8. Moreover, in the reply on affidavit of Rakesh Saini, Land Acquisition Collector, Urban Estate, Rohtak, as becomes furnished to the writ petition, there occurs the hereinafter relevant extracted table, whose perusal makes eminent surfacings qua the necessity of retention of the acquired lands, as appertaining to all the writ petitions (supra). Therefore, the latest affidavit (supra), is also corroborative to, besides is exemplificatory of the dire necessity of the acquired lands, thus for theirs subserving the relevant public purpose, for which they became acquired.

Sr. No.	CWP No. and title	Effect on planning
1.	7646 of 2016 Surender Kumar etc.	10 plots of 1 Kanal, 4 plots of 14 Marla, 3 plots of 10 Marla and 12 mtr road
2.	8377 of 2014 Mangat etc.	20 plots of 1 Kanal, 12 mtr wide road, 24 mtr wide road
3.	8378 of 2014 Dhani Ram etc.	22 plots of 6 Marla, 20 plots of 8 Marla, 12 Plots of 10 Marla, 1 Plot of 14 Marla, 28 Plots of 4 Marla, Park and 12 mtr wide road.
4.	8412 of 2014 Ramphal etc.	Nursing Home Centre-I, Nursing Home Centre-II, 19 plots of 10 Marla, 4 plots of 14 Marla, 21 plots of 6 Marla, 12 mtr wide road, 9 mtr wide road, Primary school, Park and Community Centre.
5.	21139 of 2014 Kidara and others	12 mtr wide road, 18 mtr wide road, 24 mtr wide road, 60 mtr wide road, green belt, 6 plots of 14 Marla, Social charitable site I & II, Electrical Sub Station.
6.	21140 of 2014 Kamla Devi	11 plots of 1 Kanal, 6 Plots of 10 Marla and 12 mtr road.
7.	21192 of 2014 Meer Singh	60 mtr wide road, 18 mtr wide road, 24 mtr road, green belt, multi level parking, common parking, institutional plot of 5 no.

9. Though a common ground is raised in the writ petitions (supra) appertaining to non-utilization of the acquired lands, thereby an argument is raised on the premise of the statutory provisions (supra), that consequently the acquired lands are “unviable” or “non-essential” for sub-serving the requisite public purpose. However, even the above ground fades in view of the above extracted table, as occurs in the latest reply (supra).

10. The promotions of public interest or the subserving of public interest is supreme, or, is of eminent importance, than the subserving(s) of private individual interest, even if such private individual interests are anchored, upon, the apposite policy, if any, as become drawn by the respondent(s) concerned, thus relating to releases or exemptions from acquisition of the acquired lands.

11. The impact of the above conclusion, is that, since the lands of the petitioners became subjected to lawful acquisition, inasmuch as, compensation in respect of the acquired lands becoming determined through an award made on 30.11.2009. Resultantly, when the power of eminent domain has not been exercised capriciously or arbitrarily, therefore, the acquisition proceedings, as became launched in respect of the petition lands, cannot be termed to be either arbitrary or discriminatory.

12. Furthermore, since the power of eminent domain also extends or stretches even to acquisition(s) of commercial properties, thereby when also compensation in respect of such acquisitions, is made, and may be with the resultant effect, that the erstwhile mercantile activities carried on the acquired commercial establishments, thus becoming halted or paused, yet thereby there

would be no breach to the constitutional guarantee qua right of practicing business or profession vis-a-vis the estate-holders concerned.

FINAL ORDER

13. In consequence, this Court finds no merit in the writ petitions and is constrained to dismiss them. Since the instant petitions are completely frivolous, therefore the same are dismissed with costs of Rs.50,000/- each to be forthwith deposited by the petitioners with the “**Himachal Pradesh Aapada Raahat Kosh - 2023**” for mitigating the natural disaster in the State concerned.

14. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

06.09.2023
devinder

Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No