

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

115

CWP-18758-2023

Date of Decision : August 25, 2023

ANSAL TOWNSHIP INFRASTRUCTURE LTD. AND OTHERS

-Petitioners

V/S

STATE OF HARYANA AND OTHERS

-Respondents

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

Present : Mr. Aashish Chopra, Sr. Advocate with
Ms. Mehar Nagpal, Advocate and
Mr. Varun Arjan Sharma, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Amit Jain, Advocate
for the respondent No.8.

KULDEEP TIWARI, J.

1. The petitioners have deviously woven a web of artificial illegality, entangling the acquisition proceedings, which were lawfully terminated circa in the early 1970s, i.e. approx. 5 decades back. To the judicial conscience of this Court, the instant writ petition appears to be an ill-advised motion replete with a plethora of infirmities, as it proffers an intrepid venture of the petitioners, which emits a smell of foul play, besides, it also divulges the scandalous and unholy nexus prevailing inter se builders/colonizers and the Department of Town and Country Planning concerned.

2. The principal cause behind the petitioners being driven to this Court to invoke the constitutional remedy, as enshrined in Article 226 of the Constitution of India, but in utter disdain to the principles of equity, is to protect their illegal possession over lawfully acquired petition lands. This cause would never have arisen, had certain directions not been issued by this Court, in a different matter, upon the Department concerned of the respondent-State, to get vacated all encroachments, if any, from the acquired lands in the State of Haryana.

3. The instant writ petition, in fact, derives its genesis from the directions issued by this Court, in CWP-14077-2022, wherein, through an order drawn on 14.03.2023, the respondent-State concerned was directed to first identify the lands, which had been acquired for public purposes and whose awards have become final and thereafter, to conduct an exercise to ascertain the extent of encroachments on such acquired lands, either by the original landowner or by the subsequent vendees, as such acquired lands vest in the State concerned by virtue of the relevant awards and the status of the original landowners is of trespassers.

4. However, due to the lackadaisical approach of the authorities concerned, this Court, on 20.07.2023, had issued categoric directions in the writ petition (supra), upon the learned A.C.S., Urban Local Bodies, and, C.A., H.S.V.P. to forthwith constitute a team of officers drawn from all agencies, involved in acquisition of lands for public purposes, and thereafter, to place on record the detailed statistics relating to the subject matter, as is extracted hereinafter from the order dated 20.07.2023:-

“11. Though the statistics in respect of the observations (supra), have not been to the fullest extent, thus supplied through an affidavit sworn by the officer(s) concerned, but yet there has to be an

apposite thereto ad nauseum detailed exercise to be done, at the instance of the concerned. Consequently, the learned ACS, Urban Local Bodies, and, C.A., HSVP are directed to forthwith constitute a team of officers drawn from all the Agencies, involved in acquisition of lands for public purpose, and to also ensure that such a constituted team thus, on the subsequent date of hearing, draws detailed statistics and also places on record such drawn statistics, and, as relate to: (i) the lands which were subjected to acquisition, and, such acquisitions, as stated in the acquisition notification, being of an area of land, but plainly and prima facie in commensuration with the demands of public purpose, for which such acquisition notification became drawn, and, became issued; (ii) the statistics appertaining to whether post the culmination of acquisition proceedings, there become executed, thus tainted deeds of conveyance inter-se the landowners concerned, with the vendees concerned, especially when the landowners concerned, but obviously on complete acquisitions taking place, thus became divested of any right, title or interest in such acquired lands, but who yet proceeded to execute deeds of conveyance in respect thereof qua the alienees concerned, who thereafter have assumed but obviously unlawful possession over the acquired lands, thereby defeating the public purpose concerned; (iii) statistics relating to whether in respect of completely terminated acquisition proceedings, whether on such acquired lands, some trespassers or encroachers concerned, have raised structures, or, other properties, and if so, what action has been drawn or is proposed to be drawn against such trespassers and encroachers upon those lands, in respect whereof, acquisition proceedings have become lawfully terminated; (iv) moreover, the actions taken in respect of such encroachers and trespassers shall be detailed in the affidavit; (v) Statistic relating to the disbursement of compensation to the landowners concerned, after completest termination of earlier launched acquisition proceedings under the Land Acquisition Act, 1894, and, who have yet on anvil of Section 101A occurring in the Act of 2013, thus succeeded in getting the apposite acquisition notifications de-notified, and, thereafter also getting the appositely acquired lands released to them. Since thereafter, they were required to be refunding the compensation

amount, as became earlier released to them, thus what steps have been initiated by the Authorities concerned, to launch recovery proceedings against such landowners.”

5. Pursuant to this Court igniting the law enforcement agencies concerned, notices were served by the Department(s) concerned upon all the encroachers over the acquired lands concerned, which triggered the petitioners herein to rush to this Court, otherwise they were reaping the fruits of their illegal possession over the acquired lands, in active collusion with official(s)/officer(s) of the Department of Town and Country Planning concerned, through obtaining the requisite licence(s) for development of colony(ies) upon the acquired lands, which vested in the respondent- State, for all intents and purposes.

RELIEF(S) SOUGHT IN THE INSTANT WRIT PETITION

6. The petitioners have invoked the writ jurisdiction of this Court yearning the quashing of the notification and the declaration, as issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act of 1894’), and, also the consequent thereto Award bearing No.49G dated 26.03.1971. In addition, the petitioners have sought the quashing of the notices dated 15.11.2018 and 21.08.2023, served respectively upon the respondent No.8 and the petitioners.

7. The further relief(s), as asked for in the instant writ petition, relates to the making of a mandamus upon the respondent(s) concerned to release the petition lands, admeasuring 2.05 acres, situated in Village Badshahpur, Tehsil and District Gurugram, from acquisition, in view of Section 101-A of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter

referred to as the 'Act of 2013'), as well as, the policy dated 14.09.2018, titled as "The Policy for Return of Un-utilized Land".

GROUND(S) URGED FOR GRANT OF RELIEF(S) (SUPRA)

8. The primary ground, as agitated for quashing of the impugned acquisition notification, declaration, award and notices (supra), relates to there being complete lack of knowledge to the erstwhile landowners concerned or to the petitioners, about the entire acquisition proceedings (supra), whether it be the acquisition notifications or the award concerned, as no opportunity of hearing was ever afforded to them. Moreover, not only the petitioners, even the government authorities concerned, who purportedly granted the requisite licence(s) and approvals to the petitioners, qua the petition lands, are also alleged to be unaware of the acquisition proceedings (supra).

9. The impugned notices (supra), as issued on 15.11.2018 and 21.08.2023, respectively upon the respondent No.8 and the petitioners, are alleged to be the documents acquainting the petitioners with the acquisition proceedings (supra). Moreover, the impugned notices (supra) are alleged to be illegally issued, despite there being valid sanction of a License bearing No.18 of 2010 to the petitioners, in respect of the petition lands, under the provisions of Haryana Development and Regulation of Urban Areas Act, 1975, for the development of a residential colony thereon.

10. Insofar as the relief relating to release of the petition lands from acquisition is concerned, the same is founded upon "unviability" and "non-essentiality" of the petition lands for the relevant public purpose, as the same remains yet unutilized for the purpose for which they were acquired, and, consequently warrant its being released, as stipulated in Section 101-A

of the Act of 2013, as well as, the policy dated 14.09.2018.

11. Before we proceed to make the required deliberation upon the issues raised in the instant writ petition and thereupon, pen down our resultant opinion for adjudication thereof, it is deemed essential to first trace the factual matrix of the present case.

FACTUAL MATRIX

12. The petition lands, along with some other tracts of land, were brought to acquisition by the respondent-State, while invoking the urgency clause, for a public purpose, namely, for construction of Badshahpur Drain from R.D. 0 to R.D.4000 in Village Badshahpur, Tehsil Gurgaon, District Gurgaon. The acquisition of the petition lands was done through issuance of a notification and a declaration, both drawn on 01.03.1971, respectively under Sections 4 and 6 of the Act of 1894, which were succeeded by the announcement of an award bearing No.49-G, on 26.03.1971. Upon passing of the award (supra), as contemplated in Section 11 of the Act of 1894, the possession of the acquired petition lands was assumed by the acquiring authority concerned, through the drawing of a Rapat bearing No.348, on 26.03.1971 itself.

13. Moreover, the factum qua receipt of the entire awarded compensation by the recorded landowners concerned, though is concealed by the petitioners, however, a bare glance at the written synopsis supplied by the learned State counsel, would corroborate the above factum.

14. Admittedly, the petitioners have purchased the petition lands in the year 2008, i.e. about 37 years after lawful termination of the relevant acquisition proceedings, and thereafter, they managed to procure the requisite licence(s) from the Department of Town and Country Planning

concerned, in 2010, for the development of colony(ies) thereon. Nonetheless, the petitioners further sold a major parcel of the petition lands to the respondent No.8, through execution of two different sale deeds on 18.01.2017 and 16.06.2017.

15. It would be significant to record here that the respondent No.8, who is a subsequent vendee of the petition lands, has made a categoric submission, in his written synopsis, qua his having no objection or grievance to the acquisition proceedings, as impugned in the instant writ petition. Virtually, if there had been any illegality or irregularity in the acquisition proceedings (supra), the respondent No.8, who has purchased a major portion of the petition lands, measuring approx. 1.75 acres, out of total 2.05 acres, may have been the flag-bearer in the instant writ petition. Contrarily, the respondent No.8 has extended, as apparent hereinabove, a “No Objection” to the acquisition proceedings (supra).

SUBMISSIONS BY COUNSEL FOR THE PETITIONERS

16. The learned senior counsel for the petitioners has vociferously argued that, in the absence of updation of the relevant revenue record, the petitioners, as also one of the vital limbs of the government machinery concerned, were totally unaware about the acquisition proceedings (supra). To substantiate this argument, he has drawn attention of this Court towards a report of the Halqa Patwari/Tehsildar concerned, as submitted to the Director, Town and Country Planning concerned, at the time of grant of the requisite licence(s), wherein, it was reported that the petition land is in ownership and possession of the petitioners. Based upon such a report, the licence(s) to develop colony on the petition lands was granted to the petitioners, by the Department concerned, which consequently makes the

petitioners to be the bonafide purchasers of the petition lands.

17. The further argument, as addressed by the learned senior counsel for the petitioners, reiteratedly pertains to de-notification of the petition lands, in terms of Section 101-A of the Act of 2013, as well as, the policy dated 14.09.2018. He has argued that “unviability” and “non-essentiality” of the petition lands for the relevant public purpose, on account of its remaining yet unutilized even after 5 decades of its being acquired, makes them amenable for de-notification.

SUBMISSIONS BY COUNSEL FOR RESPONDENTS NO.1 TO 7

18. The learned State counsel representing the respondents No.1 to 7 has submitted that the petitioners have made material concealments in the instant motion and have also manipulated the original facts. He contended that the purported bonafide purchase of the petition lands by the petitioners has occurred much belatedly after lawful termination of the acquisition proceedings, besides, it has occurred at a juncture, when the original landowners concerned were divested of their right, title and interest over the acquired petition lands. He has also challenged the argument posed by the learned senior counsel for the petitioners, which relates to unawareness of the petitioners and the original landowners concerned about the acquisition proceedings (supra), by citing the factum qua receipt of the awarded compensation amount by the original landowners, thereby resulting in their acknowledging the acquisition proceedings (supra).

19. The learned State counsel has also brought it to the notice of this Court, that the petitioners had filed a Civil Suit bearing No.511 of 2019 before the court of original jurisdiction at Gurugram, thereby challenging the mutation, as recorded in favour of the Irrigation Department concerned,

in the year 2018. Though initially the petitioners were successful in getting an order of status quo by concealing the material facts, however, upon the true facts being reported to the court concerned, the order of status quo was vacated vide order dated 18.08.2023. The vacation of the status quo order impelled the petitioners to rush to this Court to retain their illegal possession over the lawfully acquired petition lands, under the garb of challenging the acquisition proceedings (supra), which were lawfully concluded 5 decades back.

SUBMISSIONS BY COUNSEL FOR RESPONDENT NO.8

20. The learned counsel appearing for the respondent No.8 has, at the onset, submitted that since the respondent No.8, who owns a major portion of the petition lands, does not have any objection or grievance against the acquisition proceedings (supra), as impugned in the instant petition, therefore, no cause of action survives at all.

21. Furthermore, the learned counsel for the respondent No.8 has also, in league with the learned State counsel, alleged the concealment of material facts at the instance of the petitioners. To corroborate the plea of concealment, he has submitted that an authorized representative of the petitioner(s)-Company had submitted an undertaking, on affidavit, to the official(s)/officer(s) concerned of the Department of Irrigation and Water Resources, on 09.11.2019, agreeing therein to submit all the requisite documents for formal approval and implementation of on-ground realignment of the Badshahpur Link Drain lines, if any, passing through the land owned by petitioner(s)-Company in Sector 67. The relevant extract of the undertaking sworn by the authorized agent of the petitioner(s)-Company reads as under:-

- “1. That The Company unequivocally agrees with and accepts the proposed realignment (enclosed herewith as Annexure-I) of the stretch of Badshahpur Link Drain land allegedly falling under lands owned by The Company and/or its associate companies or its collaborators in Sector-67, Gurugram.*
- 2. That The Company shall execute, provide, sign, submit all documents required for formal approval and implementation of on-ground realignment of the Badshahpur Link Drain lands, if any, passing through lands owned by The Company and/or its associate companies in Sector 67, Gurugram.*
- 3. That The Company shall execute, provide, sign, submit all documentation required for formal approval and implementation of exchange of lands with Haryana Irrigation Department vis-a-vis Badshahpur Link Drain lands, if any, passing through lands owned by The Company and/or its associate companies in Sector-67, Gurugram.*
- 4. That The Company shall abide by all conditions and requirements imposed by the Haryana Irrigation Department required for approval, execution and implementation of the said realignment of Badshahpur Link Drain lands, if any, passing through lands owned by The Company and/or its associate companies in Sector-67, Gurugram.”*

ANALYSIS

22. We have made a comprehensive and critical survey of the entire record, as placed before us. An overall scrutiny of the record has brought us to an inevitable conclusion that the prime, rather ill-motive of the petitioner behind institution of this writ petition, is to retain and protect their illegal possession over the lawfully acquired petition lands, which vest in the State Government concerned, for all intents and purposes. The petitioners indeed do not have any locus standi to challenge the acquisition proceedings (supra), which were lawfully terminated around 5 decades back, through (i) the announcement of a validly drawn award bearing

No.49-G, on 26.03.1971; (ii) disbursement and receipt of the awarded compensation amount by the original landowners concerned; and (iii) assumption of possession by the acquiring authority concerned, vide Rapat No.348.

23. The execution of any sale deed qua the acquired petition lands, by the original landowners concerned, post the lawful termination of the acquisition proceedings (supra), is inconsequential to vest any right, title and interest over the acquired petition lands in the petitioners, who are admittedly the subsequent vendees, as post acquisition, the original landowners concerned were themselves divested of their right, title and interest over the acquired lands. Therefore, for reason (supra), the sale deeds, as relied upon by the learned senior counsel for the petitioners to establish their ownership over the petition lands, is *void ab initio*, as the original landowners were disempowered to execute the same post the lawful termination of acquisition proceedings.

24. The above principle gains corroboration from a judgment rendered by the Hon'ble Supreme Court, in case titled "***Shiv Kumar and anr. V/s Union of India and ors.***", reported as ***AIR 2019 (SC) 5374***, wherein, it has been held that any sale, post the issuance of a notification under Section 4, is void ab initio and no person can lay any challenge to the acquisition proceedings, on the strength of such sale, as the title of such person itself is defective and void. The relevant extract of the judgment (supra) is reproduced hereinafter:-

"...19. Given that, the transaction of sale, effected after section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of section 24. As the sale transaction did not clothe them with the title when the purchase

was made; they cannot claim 'possession' and challenge the acquisition as having lapsed under section 24 by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

20. *Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought under section 24(2) by such incumbents to obtain the land. **The declaration that acquisition has lapsed under the Act of 2013 is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.***

21. *'Void is, ab initio,' a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration under Section 24 of the Act of 2013; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights under section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the Act of 2013 cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of*

taking possession as held in U.P. Jal Nigam (supra) which is followed in M. Venkatesh (supra) and other decisions and consequently claim declaration under Section 24 of the Act of 2013. What cannot be done directly cannot be permitted in an indirect method...”

25. The above postulation of law gets further reiterated by the Hon’ble Supreme Court, in case titled **“Delhi Development Authority v. Godfrey Philips (P) Ltd.”**, bearing **Civil Appeal No.3073 of 2022**, wherein, it has been reiteratedly held that a subsequent purchaser has no right to assail acquisition proceedings. The relevant paragraph of the judgment (supra) reads as under:-

“42. Even otherwise, the stand of the appellant is that the possession of the entire land was taken on 14.7.1987 whereas possession of land measuring 12 Bigha 18 Biswa was handed over to it, whereas the possession of the remaining land measuring 15 Bigha 10 Biswa is with the Government of Delhi. Therefore, the purchaser is not entitled to any declaration of lapsing of acquisition proceedings inter alia on the ground that it has purchased the land after vesting of the land with the State and the possession has been taken of the land measuring 28 Bigha 8 Biswa and the compensation has also been deposited in respect of entire land, though the compensation in respect of land admeasuring 12 Bigha 18 Biswa was disbursed. The remaining amount of compensation was with the Land Acquisition Collector.

43. Still further, the purchaser had purchased the property after vesting of the land with the State. In fact, in Manav Dharam Trust, earlier three Judge Bench judgment in M. Venkatesh was not even referred to. The purchaser has no right to claim lapsing of acquisition proceedings in view of the recent larger Bench judgment of this Court reported as Shiv Kumar & Anr. v. Union of India & Ors. 22 wherein the judgment rendered by two-Judge Bench in Manav Dharam Trust was not found to be a good law. Hence, the purchaser has no right to claim a declaration sought for....”

26.

Furthermore, through a judgment rendered in case titled

“Government of NCT of Delhi v. Ravinder Kumar Jain and others”, bearing ***Civil Appeal No.3621 of 2023***, the Hon’ble Supreme Court has lent ample substantiation to the principles (supra) by holding that a subsequent purchaser has no locus standi to lay challenge to acquisition proceedings.

27. Therefore, on the touchstone of the hereinabove discussed propositions of law, we have no hesitation to hold that the instant writ petition is not at all maintainable at the instance of the present petitioners, being subsequent vendees of the original landowners.

28. Now, let us advert to another argument, as made by the learned senior counsel for the petitioners, that apart from the petitioners and the original landowners concerned, one of the vital limbs of the government machinery concerned was also totally unaware about the acquisition proceedings (supra), as the petitioners were granted the requisite licence(s) to develop a residential colony over the petition lands by the Department concerned. However, we are unable to accept this argument for the hereinafter recorded reasons.

29. The first and foremost reason is that the impugned notification and declaration (supra) were indisputably published in the official gazette to satisfy the pre-conditions of acquisition, as prescribed in the Act of 1894. Since the very object of publication of a notification in the official gazette is an intimation to the entire general public, therefore, a legal presumption arises qua knowledge in respect of notification and declaration (supra) being gained by the general public, including the petitioners. The plea of unawareness, as raised herein by the petitioners, defeats the basic object of a gazette notification. Above all, ignorance of law is not an excuse in view of the maxim ***“ignorantia juris non excusat”***.

30. Another reason for rejecting the above argument emanates from the factum, as brought on record by the learned State counsel, that the vendor of the petitioners had received the compensation amount, as determined in the award (supra). Therefore, now after elapse of over 5 decades, there does not arise any event for the petitioners to assert that they or their vendors were not having any knowledge about the acquisition proceedings (supra).

31. As far as ignorance of the acquisition proceedings (supra), on the part of one of the limbs of the government machinery is concerned, which aided the sale of the acquired petition lands to the petitioners and thereafter, accommodated the petitioners to obtain the requisite licence(s) for developing a residential colony thereon, it appears to be either a willful ignorance or an ignorance due to extraneous consideration. The case at hand is a vivid example of unholy nexus between builders/colonizers and the Department of Town and Country Planning concerned. The petition lands, which vested with one of the departments of the State Government, i.e. Irrigation Department, was conveniently sold in favour of the petitioners and even a licence was granted to develop residential colony thereon, which may not have been possible without existence of any collusion inter se the petitioners and the official(s)/officer(s) of the department concerned. Therefore, the grant of licence to the petitioners/private builders for development of a residential colony over government lands, warrants a serious probe.

32. Now, insofar as the claim of the petitioners relating to de-notification of the petition lands from acquisition is concerned, we do not find any merit in this claim. The petitioners have, while invoking the

provisions of Section 101-A of the Act of 2013 and the policy dated 14.09.2018, sought de-notification of the petition lands, on the premise, that the petition lands remain yet unutilized for the public purpose, for which they were brought to acquisition, and therefore, they have become “unviable” and “non-essential” for the State Government. However, since the petitioners are disempowered, rather barred by law, to raise any challenge to the acquisition proceedings, being subsequent purchasers of the petition lands, therefore the claim of the petitioners pales into insignificance.

33. Nonetheless, even on merits, the petition lands are unamenable for being released from acquisition. This Court in case titled ***“The Press Employees and Friends Co-operative Group Housing Society Ltd. V/s State of Haryana and others”***, bearing **CWP-15174-2023**, has made elaborate deliberations on the object and scope of Section 101-A. In the case (supra), this Court had formulated three issues concerning Section 101-A, which were answered in negative in the hereinafter extracted manner:-

“QUA ISSUE NO.(I):

The intent of the legislature, behind insertion of Section 101-A in the Act of 2013, is not to release the “unutilized” acquired lands, rather its aim and object is to enable the government to de-notify only such lands, as acquired under the Act of 1894, and, which have become “unviable” and “non-essential” for facilitating any public purpose.

QUA ISSUE NO.(II):

The answer to the issue No.(ii) is also in negative. The insertion of Section 101-A does not give rise to any new cause of action, in favour of the landowners concerned, to challenge the lawfully concluded acquisition proceedings, under the Act of 1894.

QUA ISSUE NO.(III):

The answer to this issue is also in negative. The landowners do not have any vested right to asset that the acquired lands have become

“unviable” and “non-essential”, on the ground, that such lands have not yet been utilized, or, that such lands yet continues to be in possession of the landowners, even after pronouncement of the award.”

34. In the case (supra), this Court has specifically held that the basic object behind insertion of Section 101-A in the Act of 2013 is not to release the “unutilized” acquired lands, rather its aim and object is to empower the State Government to de-notify only such lands, which have become “unviable” and “non-essential” for facilitating any public purpose. The relevant paragraphs carrying the above observations are extracted hereinafter:-

“36. Issue Nos.(i) and (iii) are being taken up together, as they are amenable for being adjudicated through a common reasoning. As discussed hereinabove and reiteratedly, the legislature has empowered the State Government to de-notify the acquired lands, by invoking the provisions of Section 101-A, but only upon its recording a subjective satisfaction, that the acquired lands have become “unviable” or “non-essential” for any public purpose. Such subjective satisfaction should not be vague and fanciful, but legal and objective.

37. Though the terms “unviable” and “non-essential” have not been imparted any definition, either in the Act of 1894, or, in the Act of 2013, however, the respective definition assigned to the above respective terms, in the Oxford Dictionary, is “Not sustainable, feasible or practicable”, and, “Not essential”. Therefore, by no means of imagination, the definition of the above terms can be linked with the term “unutilized”. Moreover, it is also no more res integra, that the land which has once been acquired, if subsequently becomes un-amenable for facilitating the relevant public purpose, as denoted in the acquisition notification, can yet be “utilized” for accomplishing any other efficacious public purpose.

38. As a natural corollary of the hereinabove discussions as well as the propositions of law, as laid down by the Hon’ble Supreme Court, it can be safely concluded that the intent of the legislature, behind the insertion of Section 101-A in the Act of 2013, is not the release of

unutilized acquired lands, rather its aim and object is to empower the State Government to de-notify only such lands, which have been acquired under the Act of 1894 and which have become “unviable” and “non-essential” for it, based upon tangible evidence, for executing any “public purpose”.

39. Moreover, in the absence of any cogent evidence on record suggestive that the acquired lands have become “unviable” or “non-essential” for any efficacious use, the mere “unutilization” of the acquired lands for a long span, does not confer any valid authority, either upon the landowners concerned or upon the State Government, to respectively either seek de-notification or order de-notification of the acquired lands.”

35. Moreover, the concept of public purpose has also been explained in the case (supra), in the hereinafter extracted manner:-

*“31. Further, the concept of “public purpose” has been thoroughly scrutinized and explained by the Hon’ble Supreme Court in case titled **“Daulat Singh Surana v. First Land Acquisition Collector”, 2007(1) RCR (Civil) 260**, in the hereinafter extracted manner:-*

“.....73. Public purpose cannot and should not be precisely defined and its scope and ambit be limited as far as acquisition of land for the public purpose is concerned. Public purpose is not static. It also changes with the passage of time, needs and requirements of the community. Broadly speaking, public purpose means the general interest of the community as opposed to the interest of an individual.”

*32. In case titled **“State of Kerala v. M. Bhaskaran Pillai”, AIR 1997 SC 2703**, the Hon’ble Supreme Court has extended the sphere of “public purpose” and has held that if after utilization of the acquired land for the relevant public purpose, some land still remains unutilized, it need not be returned to the original landowner, rather it can either be utilized for any other public purpose or it can be sold by way of public auction, so as to achieve the larger public interest. The relevant observations, as carried in the case (supra), are reproduced hereunder:-*

“...3. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by

operation of section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges: Whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting higher value.....”

36. Insofar as the policy dated 14.09.2018, titled as “The Policy for Return of Un-utilized Land” is concerned, the learned Advocate General, Haryana has made a statement before this Court, in CWP-14077-2022, that the withdrawing of the said policy, which is indeed beyond the scope of Section 101-A of the Act of 2013, is under active consideration of the Government of Haryana.

37. Therefore, as a sequel to the hereinabove discussed material, the claim of the petitioners for de-notification of petition lands, as founded upon Section 101-A and the policy dated 14.09.2018, is unworthy of acceptance and is accordingly rejected.

FINAL ORDER

38. The bottom line of our hereinabove made discussion is that the instant writ petition is a frivolously designed motion and is stained with

material concealment of facts, which is promoted by ill-motive(s), to thwart the progress of the nation, for personal individual interests. Therefore, the instant writ petition is dismissed with costs of Rs.1,00,000/- to be forthwith deposited in the Poor Patient Fund of P.G.I.M.E.R., Chandigarh.

39. Moreover, the present case is an eyeopener, rather is a tip of the iceberg, qua the unholy and clandestine nexus prevailing inter se builders/colonizers and the Department of Town and Country Planning concerned. Therefore, we direct the learned Chief Secretary, Government of Haryana:-

- (i) to immediately requisition reports from all quarters concerned, in respect of the acquired lands, and thereafter, to issue specific directions to the Department of Revenue to update the relevant revenue record and to also make such information available to all the Registrars/Sub Registrars in the State of Haryana, so that the sale deeds of acquired lands may not be registered in future.
- (ii) to mark an inquiry into the complete episode pertaining to registration of sale deed in respect of acquired petition lands and thereupon, fix the responsibility of the delinquent officer(s)/official(s).
- (iii) to mark an in-house inquiry into the episode of grant of licence to the private builders/petitioners for development of residential colony over government lands, and thereupon, to fix the liability of the delinquent officer(s)/official(s).
- (iv) if the inquiry report(s) so received, in the above regard, indicates the commission of any penal offences, thereupon, to

consider launching of appropriate criminal proceedings against the delinquent officer(s)/official(s).

40. A compliance report, in the above regard, be submitted to this Court within two month from the date of receipt of a copy of this order. Let a certified copy of this order be forthwith sent to the office of the learned Chief Secretary, Government of Haryana, through the office of learned Advocate General, Haryana, for its immediate and strict compliance.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 25, 2023
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No