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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-20739-2023
Date of Decision : October 11, 2023

KARAM CHAND

-PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

-RESPONDENTS

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

Present : Mr. Suman Jain, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner had earlier accessed this Court, through instituting CWP-10792-2008. In petition (supra), the petitioner claimed relief for quashing of the relevant notifications, whereby, the disputed lands were brought to acquisition.

2. This Court, in the relevant paragraph 3 of the verdict, as became made on 04.02.2014, upon the petition (supra), paragraph whereof becomes extracted hereinafter, had passed a direction to the Land Acquisition Collector concerned, and, to the District Town Planner concerned, to visit the petitioner's site for determining whether the constructions, if any which were existing on the acquired lands, were raised prior to the issuance of a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), and if so, the benefit of the verdict referred to in the said paragraph, be thus extended to the petitioner and consequently, the residential property along

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with open space(s) preferably of equivalent size, being ordered to be released.

*“(3) The respondents though have not filed written statement but we do not deem it necessary to call upon them at this stage, to file their reply for the reason that we are inclined to dispose of this writ petition with a direction to the Land Acquisition Collector and the District Town Planner to visit the petitioners’ site and if it is found that there exists a residential house/building/structure before issue of Section 4 notification, let the benefit of Government policy 26th October, 2007 as modified on 24th January, 2011 which has been partially approved by the Supreme Court in **Patasi Devi versus State of Haryana and others, (2012) 9 SCC 503**, be extended to the petitioners and consequently their residential property along with open space preferably of equivalent size, be released.”*

3. Since the above directions became not forthwith complied with, therefore, the petitioner was led to institute COCP-91-2016 before this Court. On the said contempt petition, the hereinafter extracted orders were made, on 14.03.2023:-

“Counsel for the petitioner, in view of the compliance affidavit, submits that this petition may be disposed of, however, liberty be granted to the petitioner to avail the alternative remedy, in accordance with law.

Ordered accordingly.”

4. It also appears, that in pursuance to the institution of the above contempt petition before this Court, the respondent(s) concerned proceeded to make an order, which is carried in Annexure P-20. The said order made recommendations to the acquiring authority concerned to release twice the area of the constructed portion, i.e. 600 sq. yards (300+300), but subject to site demarcation being made.

5. The dispute, which has now emerged, relates to the size of the constructed area being 440 sq. yards or lesser, thus prior to the issuance of a notification under Section 4 of the Act of 1894. Therefore, the learned counsel for the petitioner argues, that the verdict made by this Court, on 04.02.2014, upon the writ petition (supra), and, also the order (supra) as became recorded by competent authority concerned, thus in pursuance to the institution of the contempt petition (supra), rather still does not ensure, that thereby complete compliance has been made to the directions (supra), as made by this Court.

6. The learned counsel for the petitioner, has planked the above argument on Annexure P-5. The said Annexure has emanated from the Municipal Council, Palwal. Though the said document prima facie supports the submission made before this Court by the learned counsel for the petitioner. However, the reason for not accepting the validity of the said document, stems from the factum, that since it has not been drawn in contemporaneity to the issuance of a notification under Section 4 of the Act of 1894. Resultantly, this Court becomes inevitably led to draw a conclusion, that the constructions, if any, as became raised by the petitioner over the acquired lands, purportedly of a size larger than the one, as reflected in Annexure P-20, thus being raised post the issuance of a notification under Section 4 of the Act of 1894.

7. In consequence, since this Court had made the directions (supra), and, also had granted relief as spoken therein, but yet only when the relevant constructions, were evidently raised prior to the issuance of a notification under Section 4 of the Act of 1894, whereas, this Court rather making an inference, that there is mis-dependence upon Annexure P-5, by

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the learned counsel for the petitioner, that the relevant constructions thus of a size larger than the one, as reflected in Annexure P-20, rather became raised in contemporaneity to the issuance of a notification under Section 4 of the Act of 1894. Therefore, fact (supra) becomes belied.

8. The learned counsel for the petitioner has also vigorously argued, that since in Annexure P-5, there is a reference about the age of the constructions being 6 years, therefore, he has further argued that the said constructions rather be deemed to be made in contemporaneity to the issuance of a notification under Section 4 of the Act of 1894.

9. However, the said reference in Annexure P-5 is required to be also standing the test of evidentiary worth, inasmuch as, the said reflections are required to be ensured to be proven by the engineering cell of the Municipal Council, Palwal. Moreover, the above exercise can be done only when a suit for declaration is instituted before the civil court concerned thus by the petitioners, and therein, the engineer concerned, who has in Annexure P-5, made an echoing that the age of the constructions is 6 years, and, thus is related to the stage when the notification under Section 4 of the Act of 1894 became issued, rather steps into the witness box and proves the said references, as, are spoken in Annexure P-5.

10. In nutshell, since this Court is not the civil court, besides also when this Court concludes, that the said facet is naturally, but a disputed question of fact, which is required to be settled only before the civil court concerned. Resultantly, this Court refrains from accepting, at this stage, the arguments addressed before this Court by the learned counsel for the petitioner, that the verdict(s) drawn by this Court, is not completely complied with, as the size of constructions which were raised on the

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acquired lands of the petitioner, were at the relevant stage, thus of a larger size or dimension(s), than as reflected in Annexure P-20.

11. Therefore, at this stage, this Court finds no merit in the instant writ petition and is constrained to dismiss it. Accordingly, the writ petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 11, 2023
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No