

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 25864 of 2022
Date of Decision: 16.8.2023**

Anup Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J. (ORAL)

1. In the instant petition, the petitioners make a prayer for quashing of the order dated 10.1.2019/18.2.2019 (Annexure P-10), whereby the petitioners' claim for their estate becoming released from acquisition, thus became declined.

2. The present petitioners had earlier accessed this Court through the institution of CWP No. 24365 of 2011. Through a decision made thereons, on 18.9.2013 (Annexure P-3), this Court had declined relief qua the denotification of the acquired lands, thus in respect of the land measuring 1 Kanal-15 Marlas enclosed in khasra No. 6/1 and 7/1 of Mustil No. 3, rather on the ground, that the same fell within the alignment of green belt and of the road concerned.

3. Nonetheless, insofar as the property of the present petitioners, comprising of four rooms, and, a boundary wall, hence constructed by the petitioners, is concerned, the said property was ordered to be released from acquisition, as was already done at the instance of the acquiring authority.

4. However, a reading of paragraphs 5 and 6 of the verdict (supra), paragraphs whereof are extracted hereinafter, discloses that since the learned counsel for the petitioners, had made an argument, that the remaining unreleased land of the petitioners, is also not required for furthering any public purpose, nor it being required for being reserved as green belt, and/or for construction of the road concerned, that this Court had thereafter proceeded to make an order, upon, the respondent concerned, to re-demarcate the un-utilized land of the petitioners, as carried in a dimension of 1 kanal-15 marlas.

“5. After hearing counsel for the parties, we are of the view that if the land measuring 1K-15M is required for 'Green Belt' or 'road', the same cannot be released as the 'public utilities' are more important than an individual's interest. Learned counsel for the petitioner, however, submits that only a part of the acquired land would be needed for the development of 'Green Belt' and construction of the 'Road' and the remaining land not to be utilised for any public purpose, may be released. To this extent, the petitioner's stand appears to be fair and just.

6. We, therefore, dispose of this writ petition with a direction to the respondents to redemarcate the area and if it is found that a part of the acquired land measuring 1K-15M is not required for the purpose of construction of 'road' or the development of 'Green Belt', the claim of the petitioner for the release of such unutilised land may be considered. Let the appropriate orders be passed within three months from the date of receipt of certified copy of this order.”

5. In pursuance to the above directions, a speaking decision, as enclosed in Annexure P-4, was passed, whereby the said land was disclosed to be forming part of the road widening project of Mahendergarh-Narnaul Road, and, further that it is also a part of 45 meter wide green belt, and, that there is a prohibition against raising of any residential house thereons.

Consequently, in the operative part of Annexure P-4, there was a declining of the relief for the said land becoming released from acquisition by the authority concerned,

6. Be that as it may, after the passing of the said annexure, still the petitioners through his predecessor-in-interest, re-accessed this Court through the institution of CWP-18858-2014. Thereons a decision was made by this Court on 25.7.2017, and, to which Annexure P-9, is assigned. The relevant paragraph of the verdict (supra), is extracted hereinafter.

“Considering the aforesaid factual matrix, in our opinion, issues raised by the petitioners regarding release of their land from acquisition on various grounds including the ground of discrimination and the land being not required for widening of road or maintaining green belt deserves to be re-considered by the competent authority in the State.”

7. In sequel to the making of the above verdict, upon the respondent concerned, the authority drew Annexure P-10, whereby the relief qua the petitioners’ land becoming released from acquisition, became also declined.

8. Therefore against Annexure P-10, the petitioners are led to constitute the instant writ petition before this Court.

9. The learned counsel for the petitioners, has very vehemently argued before this Court, that the above extracted portion of the verdict (Annexure P-9), as became passed by this Court, upon the petition (supra), not only reserves a right in the petitioners to claim parity with those land owners, whose lands became released from acquisition, but also entitles the petitioners to make a submission before the authority concerned, as, seized with the representation, thus relating to the petitioners estate being not required, either for the widening of the roads or for maintaining the green

belt reserves. The above argument is rested on the plank, that in respect of the private builder, whose lands adjoin the lands of the present petitioners, there has been an order for the release of the builder's land from acquisition, and, thereby since the petitioners' land, is located in proximity to the land of the builder concerned, thereby on parity therewith thus, the petitioners' land is also required to be released from acquisition. Therefore, the learned counsel argues, that the declining order, as enclosed in Annexure P-10, is required to be interfered with.

10. However, for the reasons to be assigned hereinafter, the above made argument, is completely misplaced, and, is liable to be rejected. The prime reason for rejecting the above argument becomes rested, on the premise, that today it has been brought to the notice of this Court, by the learned Additional Advocate General, that the said release of land, as made in favour of the builder concerned, whose land is adjoining the present petitioners, is not an unrestricted or untrammelled release of land. In that regard, he has placed before this Court Form LC-V having Licence No. 36 of 2009, and, with conditions No. 4 and 5, conditions whereof become extracted hereinafter.

“4. That the licence shall construct the portion of service road forming part of licenced area at his own cost and will transfer the same free of cost to the Government along with area falling in Green belt.

5. That the portion of Sector/Master plan road which shall form part of the licenced area shall be transferred free of cost to the Government in accordance with the provisions of Section 3(3) (a) (iii) of the Haryana Development and Regulation of Urban Areas Act, 1975.”

11. A reading of the above made conditions, as operate in respect of the lands of the builder concerned, but adjoining the land of the present

petitioners, reveals that the purported release of the lands to the builders concerned, is conditional or a trammled release, inasmuch as, in respect of the relevant portion, an injunction has been made upon the builder concerned, to construct thereons a service road, thus at his own cost, and, thereafter his being also enjoined to transfer the said service road in favour of the Government along with the area falling in the green belt. Therefore, the learned counsel for the petitioners cannot argue, that the release of the land, as made to the builder concerned, is an unrestricted, and, untrammled release, nor he can proceed to make an argument, that thereby the petitioners become entitled to claim parity along with the said builder, nor can he well argue on the said purported plank of discrimination, nor can he make an argument, that the estate of the petitioners is also liable to be released from acquisition.

12. Fortification to the above inference becomes drawn, from the factum, that there are clear echoings in Annexure P-10, more especially, at page 71 of the paper book, that the petitioners' land falls in the 45 meter wide green belt along with existing Narnaul-Mahendergarh Road, which is a part of Sector 9A (part) and Sector 10. Therefore, since the estate of the petitioners is reserved as a green belt, as was the estate of the builder concerned, and, who in the above manner, has been enjoined to not raise any construction thereons, besides has been enjoined to raise, thus a road at his own expense, and, thereafter to transfer it to the Government. Consequently, given the above necessity of retention of the petitioners' land hence for furthering the public purpose concerned, as such, the learned counsel for the petitioners cannot argue, that the petitioners' estate is not required to be retained, as it is not required for facilitating the requisite

13. In summa, this Court does not find any merit in the instant petition, and, is constrained to dismiss it.

14. Accordingly, the instant petition is dismissed. The impugned order is maintained and affirmed.

15. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 16, 2023
Gurpreet

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