

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

**CWP-24497-2023(O&M)
Date of decision: 30.10.2023**

Saroj Yadav and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Amit Jhanji, Senior Advocate, with
Mr. Abhinav Sood, Advocate, and
Mr. Shanshank Shekhar Sharma, Advocate, for the petitioners.
Mr. Ankur Mittal, Addl. AG, Haryana.
Mr. Deepak Sabharwal, Advocate, for the respondent(s)-HSVP.

ARUN PALLI, J. (Oral)

The petitioners herein have prayed for the following substantive relief:

**“Civil Writ Petition under Article 226 and 227 of the
Constitution of India seeking a writ, order, or direction,
particularly in the nature of certiorari, to set aside the list
uploaded on 17.10.2023 on the official e-auction website of
the respondent authorities (HSVP) (Annexure P-17) for e-
auction of residential properties in respect of Gurgaon
zone on 31.10.2023 to the extent of the land comprising an
area of 24 kanal 10 marlas owned by the petitioners which
has been included for e-auction to be held on 31.10.2023.
The said action of the respondents is bad in law as the land**

measuring 6 kanal 18 marlas, already stands released by the respondent authorities in 1993 which is clearly evident/admitted from letter dated 22.01.1993 (Annexure P-4), letter dated 30.04.2008 (Annexure P-7) and letter dated 25.01.2016 (Annexure P-11). Further qua land measuring 17 kanal 12 marla the petitioners release application is pending before respondent no. 4, for the last 7 years. The release application was filed in compliance to the order dated 10.07.2015 passed in CWP No. 13586 of 2015 by this Hon'ble Court.

And/Or/

Issuance of a writ, order or direction, especially in the nature of mandamus directing the respondents to stay the auction proceedings scheduled for 31.10.2023 to the extent of the land comprising an area of 24 kanal 10 marlas which belongs to the petitioner, as on the said land numerous structures are present, including a dwelling house, several rooms, samadhis of ancestors, temples, and various trees.

And/Or

Issuance of a writ, order, or direction especially in the nature of mandamus directing the respondents to disclose the reasons for inclusion of the entire land of the petitioners in the e-auction process scheduled for residential properties in respect of Gurgaon zone on 31.10.2023.

And

Issuance of a writ, order, or direction especially in the nature of mandamus directing the respondent no. 4 to produce the records/ status reports regarding the action taken till date in response to the representations filed by the petitioners in pursuance to the order dated 10.07.2015 passed by this Hon'ble Court in CWP No. 13586 of 2015 (Annexure P-8).”

Learned Senior counsel for the petitioners submits that owing to the acquisition proceedings initiated by the Government, vide notification dated 20.04.1990, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land measuring 24 kanals 10 marlas, situated at Village Kanhai, Tehsil and District Gurgaon, owned by the petitioners, was acquired. He submits that of the total land holding, a site measuring 6 kanals 18 marlas was released by the authorities in 1993 itself. However, he fairly concedes that the challenge laid to the acquisition proceedings by the petitioner(s) failed and the orders passed by this Court, as also the Supreme Court, in this regard, have since attained finality. It is submitted that despite acquisition of their land holding measuring 17 kanals 12 marlas, petitioners continued to be in actual physical possession of the acquired land, and were not even paid the compensation. Accordingly, petitioner No.1 (Saroj Yadav) approached this Court vide CWP No.13586 of 2015, for in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the acquisition proceedings had since lapsed. And eventually, he submits, the said petition was disposed of by this Court vide order dated 10.07.2015, whereby petitioner No.1 was granted liberty to move a representation to the authorities qua her concerns/grievances and the respondents were required to pass a detailed order in case any such representation was made by petitioner No.1. He submits that petitioner No.1 moved a representation dated 31.08.2015 (P-9), whereafter vide communication dated 01.02.2016 (P-12), she was required to appear before the competent authority on 05.02.2016 at 11:00 am for consideration of her claim.

It is urged that although petitioner No.1 appeared before the authorities on the appointed date, but no order was passed. Subsequently, vide another notice dated 27.09.2022 (P-14), petitioner No.1 was again asked to appear before the competent authority on 03.10.2022. And, not only that she appeared before the authority, but also submitted a detailed representation of even date, for release of her land. It is submitted that since then the authorities have maintained a stoic silence and no order has been passed dealing with the claim of the petitioner(s). So much so, he asserts that pursuant to auction notice dated 17.10.2023 (P-17), whereby the residential properties in respect of Gurugram zone are sought to be auctioned, the disputed land has also been included and is being auctioned. Therefore, he submits that on the one hand, the authorities have apparently failed to deal with the claim of the petitioner(s) despite specific order passed by this Court as back as on 10.07.2015, and on the other, to frustrate the rights/interest of the petitioner(s), the area measuring 17 kanals 12 marlas is sought to be auctioned. Something, which would entail serious ramifications in case third party rights are created.

Upon being served with an advance copy, Mr. Ankur Mittal, Additional Advocate General, Haryana, and Mr. Deepak Sabharwal, learned counsel for the respondent-HSVP, are present in Court.

The assertions made in the petition as also the arguments advanced by learned Senior counsel for the petitioners are seriously disputed and controverted. Learned counsel appearing for the respondent-HSVP, submits that as regards possession, rapat No.425, dated 23.03.1993 was recorded. And, the land in question was even mutated, vide mutation No.1218, dated 04.08.2004, in favour of the respondent-Haryana Shehri Vikas

Pradhikaran (HSVP). As regards compensation, he submits that the same was deposited with the executing Court. But, on instructions from Mr. Ajit Balaji Joshi, Chief Administrator, HSVP, Office Complex, Sector-6, Panchkula, Haryana, it is submitted that though the auction is slated for 31.10.2023 but before the said proceedings, qua the land in question, are finalized, the competent authority would consider the claim/representation of the petitioner(s) in the right earnest and pass appropriate orders in accordance with law at the earliest. Further, the petitioners shall also be at liberty to supplement their claim by submitting any further representation and furnish fresh material to substantiate their claim before the Administrator, Gurugram, by tomorrow till 1:00 PM. And the petitioners shall also be granted an opportunity of hearing before any such order is passed, and a communication in this regard will be sent to Mr. Abhinav Sood, learned counsel for the petitioners. Accordingly, it is submitted that the petition be disposed of.

Learned Senior counsel for the petitioners is agreeable to the course suggested by learned counsel for the respondent-HSVP and submits that let the petition be disposed of in terms of his statement.

In the wake of the position sketched out above, as also the statements made by learned counsel for the respective parties, the petition is accordingly disposed of.

This Court is sanguine that the competent authority shall look into the grievances/concerns of the petitioners and pass appropriate orders, in accordance with law, assigning reasons in support thereof. And, as undertaken by learned counsel for the respondent(s), the auction proceedings qua the land in question shall not be finalized before any such order is passed.

Needless to assert, this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the grievances of the petitioners, strictly in accordance with law.

(Arun Palli)
Judge

(Vikram Aggarwal)
Judge

30.10.2023
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO