

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

CWP-30024-2022

Date of Decision: 23.01.2023

Maha Singh and others

.....Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. R.S. Rangpuri, Advocate,
for the petitioners.

Mr. Abhay Pal Singh Gill, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed by the petitioners under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to restore the acquired land to the original land owners and their legal representatives. Reliance has been placed upon the standing orders of the Land Administration Manual in this regard.

As per the case of the petitioners itself, the land was acquired on 19.02.1954 for the Department of Jails, which was measuring around 15 acres in Muktsar, then District Ferozepur for the public purpose i.e. construction of a judicial lock up at Muktsar in Ferozepur District. Notifications in this regard have been appended as Annexures P-1 and P-2. The petitioners are stated to be owners of 20 kanals 4 marlas of land out of the said land and as per the revenue record, which would go on to show that they had received a sum of Rs.1,900/- at that point of time as per the mutation now appended as Annexure P-4. Now, averments have been made that there is no

compensation received. The present petitioners are stated to be the grand

children of Harnam Singh, who died on 31.05.1958 and even his son and father of the petitioners took no steps to initiate any litigation at that point of time. The averments are that judicial lock up has now been shifted to other locality and now the land is lying abandoned after the fulfillment of public purpose. The legal heirs have, thus, made a representation as such for return their land. Reference has been made to Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the 2013 Act').

The proceedings had long been finalized under the Land Acquisition Act, 1894 (in short 'the 1894 Act'), which stands repealed and provisions of the 2013 Act would go on to show that it applies to the land acquired under the said Act. Section 48 as such of the 1894 Act would go on to show that the Government is at liberty to withdraw from acquisition of any land of which possession has not been taken. The facts are not disputed herein that possession was taken and also used for the jail department. The fact that they have been not now utilizing as such the acquired land and the same is lying vacant on account of shifting would not give a right to the land owners for restoration as the State had become an absolute owner of the land and the land had vested after the award was passed in view of the provisions of Section 16 of the 1894 Act.

In such circumstances, we are of the considered opinion that there is no such legal right of the petitioners as such to seek a writ of mandamus for the land which had become the ownership of the State Government who is free to use it in whichever manner it so wishes. In the

absence of the same, merely by serving demand notice dated 11.08.2022

(Annexure P-7) would not give any such right once there is a statutory provision that the land as such vested with the State.

Reliance upon the judgment of the Apex Court in ***State of Haryana and others vs. Gurcharan Singh and others, (2004) 12 SCC 540*** on the ground that the land is no longer required and should be restored to the land owners would not be helpful to the counsel for the petitioner as in the said case, on the basis of the Standing Order No.28 which has also been relied upon by counsel for the petitioner, the appeal had been dismissed. In the said case upholding the judgment of this Court, which had upheld the suit which had been decreed on the said ground, it was found that the Government had no power to discriminate between persons similarly situated and once land had been released in favour of the other persons, the interference as such was not done while holding that Standing Order No. 28 and Para No. 493 do not create any right in favour of the persons to get back the possession of the land.

Rather, observations in the subsequent decision of the Apex Court would be directly applicable in ***Leela Vanti and others vs. State of Haryana and others, (2012) 1 SCC 66*** wherein also, Para No. 493 of the Land Administration Manual and Standing Order No.28 was referred to. It was also noticed that apart from the gap of three decades between the issuance of the notifications in the year 1976 and the filing of the writ petition in 2007 would also invoke doctrine of laches for negating the challenge to the acquisition of land. Accordingly, it was held that the State cannot be debarred from using the acquired land for any other public purpose and such an interpretation would be contrary to the language of Section 16 of the Act.

“16. A reading of the above reproduced Paragraph of the Land Administration Manual nowhere suggests that the State Government is duty-bound to restore the acquired land to the owners after the purpose of acquisition is accomplished. It merely mentions that as a matter of grace the Government is usually willing to restore agricultural and pastoral land to the owners on their refunding the amount of compensation. If Paragraph 493 is read in the manner suggested by the learned counsel for the appellants then in all the cases the acquired land will have to be returned to the owners irrespective of the time gap between the date of acquisition and the date on which the purpose of acquisition specified in Section 4 is achieved and the Government will not be free to use the acquired land for any other public purpose. Such an interpretation would also be contrary to the language of Section 16 of the Act, in terms of which the acquired land vests in the State Government free from all encumbrances and the law laid down by this Court that lands acquired for a particular public purpose can be utilised for any other public purpose.”

Accordingly, we do not find any merit in the present writ petition and the same stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

23.01.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No