

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

(111)

CWP-349-2023

Decided on: 14.03.2023

Sher Singh Verma and others

....Petitioner(s)

Versus

State of Haryana and others

.... Respondent(s)

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

Present: Mr. Chandra Shekhar Singh, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, AAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate and
Mr. Jugam Arora, Advocate for respondent Nos.3 & 4.

G.S. Sandhawalia, J.

In the present writ petition filed under Articles 226/227 of the Constitution of India, challenge has been made to the acquisition of the land wherein the land of the petitioners was acquired vide notifications dated 22.10.1974 (Annexure P-3) issued under Section 4 and 17.10.1977 (Annexure P-4) issued under Section 6 of the Land Acquisition Act, 1894 (for short '1894 Act'), whereby the land falling in village Dharuhera, District Rewari was acquired. Thereafter, Award No.5 was passed on 06.07.1978 (Annexure P-5) and the land vested in the State. The land was acquired for the public purpose of setting up of Industrial and Residential areas in the Urban Estate and belonged to Villages Dharuhera and Khatawali.

2. The claim as such in the present writ petition is for getting the benefits under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act') on the ground that the land has not been utilized even after 48 years of its notification and resultantly claim has been made that representation dated 11.11.2022 (Annexure P-8) should be decided.

3. A perusal of the said representation would also go on to show that the co-owner and uncle of the writ petitioners had filed Reference Petition under Section 18 & 30 of the 1894 Act and resultantly they had been awarded compensation @ ₹32,500/- per acre by the Reference Court, which also stood withdrawn by Duli Chand, uncle of the writ petitioners.

4. The State has filed its status report taking the plea that possession of the land was taken on 06.07.1978 vide Rapat Roznamcha No.420. Out of the compensation of ₹82,83,023.09, a sum of ₹7,76,213.20 had been disbursed. It has also been mentioned that the petitioners have also received the amount of compensation which fact has not been disclosed in the writ petition and acquisition proceedings stands concluded for all intents and purposes and the land stands vested to the State and if the petitioners retains the land, the possession as such is of a trespasser. Relevant part of the status report reads as under:-

“7.That it is respectfully submitted that at the time of announcement of award, the possession of the land in question was taken by recording Rapat Roznamcha no. 420 dated 06.07.1978. It is further submitted that entire amount of compensation i.e., Rs. 8283023.09/- was tendered at the time of announcement of award and out of same, an amount of Rs. 776213.20/- was disbursed to the landowners. As far as the

land in question is concerned, the petitioners have received the amount of compensation on 06.07.1978. This fact has not been disclosed in the writ petition by the petitioners. Therefore, for all intents and purposes the acquisition proceedings stands concluded for all intents and purposes. Since the possession of the land has been duly taken by the State Government, therefore, the land also stood vested in the State under section 16 of Act of 1894 free from all encumbrances and it is settled law that once the land stands vested, the right of the erstwhile landowners is ceased and it is the State which is owner of the land. The erstwhile land owner if retains the possession is a trespasser, therefore, the petitioners have no locus standi to file the instant petition.”

5. It has also further been mentioned that the land in question comprised in Khasra No.28//26/1/(0-13), 27//162/1 (3-4), 17/1/1 (2-1), 17/2/1 (1-0) affects the planning of 6 numbers of 4 kanal category plots, 30 meter wide internal road and industrial plot Nos.5, 33 and 71. The site plan (Annexure R-1) has been placed on record in support of the said claim to show that how the planned development is being affected.

6. We have also perused the said site plan, which confirms the fact that the land which is sought to be released would disrupt allotment of four 2 kanal category plots and also that the planned development of the road would also be affected.

7. In such circumstances, we are of the considered opinion that the claim as such made out in the representation that the land has become unviable or non-essential and it should be de-notified is without any basis. Even otherwise it is to be noticed that the said provision has been subject matter of consideration by the Apex Court in **SLP (C) No.16421 of 2021** titled as **Ram Swaroop (D) through L.Rs. and another Vs. State of Haryana and others** decided on 15.11.2021. The said judgment kept into

consideration the earlier judgment passed in **Raghubir Singh and another Vs. State of Haryana and others, 2021 (3) RCR (Civil) 533** and, accordingly, the Apex Court came to the conclusion that the said provisions are not to be exercised on the asking of the persons whose land stands acquired and the provisions as such cannot be used to defeat the public purpose of acquisition of the land for development and utilization and could not be used for the purpose to continue in possession on one pretext or the other and it is not a vested right. Relevant portion of the said judgment reads as under:-

“8. [Section 101-A](#) of 2013 Act (as inserted in State of Haryana) gives liberty to the State Government to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the landowner due to such acquisition. [Section 101-A](#) is an enabling provision with the State Government to denotify the land vested with the State if it finds that any public purpose for which land was acquired under the [Land Acquisition Act, 1894](#) becomes unviable or non-essential. In other words, the power is with the State Government on its satisfaction that the land acquired has become unviable or non-essential. No landowner has a vested right to assert that the land acquired has become unviable or non-essential mainly because the landowner continued to be in possession by virtue of an interim order passed by the High Court.

xxxx xxxx

11. The claim of the appellants for release of land on account of Section 24(2) had been rejected by the State Government on 12.09.2016. The writ petition against the said order stands dismissed on 12.10.2020. Thus, the present appeal is merely an attempt to continue to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development

and utilization of residential, commercial and institutional area, Sector-51, Gurgaon (now Gurugram). This Court in Raghbir Singh has held that Section 101-A does not give a vested right to the landowner to seek denotification or even that upon denotification, the land in question must return to the erstwhile owners only. The State Government is at liberty to pass such order other than release of land in favour of the landowners.

8. It has already been noticed that the award was also passed long ago and once that is so, the petitioners have become unauthorized occupants of the land and have a rank of trespassers. They have not come to the Court with clean hands and have accepted the compensation but averred otherwise and, therefore, in view of the observations made in **Prestige Lights Ltd. vs. State Bank of India, 2007 (4) RCR (Civil) 46** have no right to be heard on merits.

9. Keeping in view the above, we feel that no case is made out to issue directions for consideration on the representation, specially keeping in view the fact that the occupation of the petitioners on the acquired land is blocking the planned development as noticed above. Resultantly, there is no merit in the present writ petition and the same is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

14.03.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No