



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(1) CWP No.1147 of 2020
Date of Decision: 23.09.2024

Azad Singh and othersPetitioners.
Versus
State of Haryana and othersRespondents.

(2) CWP No.1144 of 2020
Jagpal Rathee and othersPetitioners.
Versus
State of Haryana and othersRespondents.

(3) CWP No.1038 of 2020
Sita Ram and othersPetitioners.
Versus
State of Haryana and othersRespondents.

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Sushil Kumar Sharma, Advocate
for the petitioners in all the petitions.

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

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Sidhhant Arora, Advocate and
Ms. Vasundhra Asija, Advocate for
Mr. P.S. Chauhan, Advocate
for the respondent-HSIIDC.



G.S. SANDHAWALIA, J.(Oral)

The present judgment shall dispose of the above-referred three writ petitions, since notification in question and village from which the land had been acquired is common. However, for brevity and clarity, detailed order is being passed in ***CWP No.1147 of 2020*** titled as ***Azad Singh and others Versus State of Haryana and others.***

2. Challenge in the present writ petitions is, primarily, to the acquisition proceedings initiated way back on 23.01.2001 under Section 4 of the Land Acquisition Act, 1894 (for short ‘the 1894 Act’) and Section 6 of the 1894 Act dated 22.01.2002 leading to the award dated 20.01.2004.

3. The plea taken by the petitioners is for lapsing of the acquisition proceedings under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, ‘the 2013 Act’) on the ground that the possession of the land is with them and compensation has not been paid. Challenge has also been raised to the order dated 03.06.2019, which is passed in all the three cases with separate facts of even date which was further passed in pursuance of the earlier directions on account of the petitioners having approached this Court and having got the necessary directions to decide their representations way back in the year 2015.

Facts of CWP No.1147 of 2020

4. In this petition filed by petitioners Azad Singh and others, the land has been described as measuring 102 Kanals 06 Marlas in one Khewat



and in the other Khewat to the extent of 16 Kanals 08 Marlas and the ownership to the extent of their shares in Village Sankhol, Tehsil Bahadurgarh, District Jhajjar. Perusal of the order impugned dated 03.06.2019 passed by the Managing Director, HSIIDC in the present case would go on to show that the acquisition was part of 253 acres 04 Kanals 02 Marlas land for a public purpose of development of industrial area and eventually, after considering the recommendations of the Land Acquisition Collector under Section 5-A of the 1894 Act, the notification under Section 6 of the 1894 Act was issued on 22.01.2002 for acquisition of the land measuring 157 acres 07 Kanals 19 Marlas only due to the stay granted by the Additional District Judge, Jhajjar. In the earlier litigation filed before this Court, certain portion of the land was also released in favour of M/s Surya Roshni Limited and Parle Biscuits Private Limited and the Temple Ganpati Mangal Dham on 11.03.2013, whereas the land of applicants was lying vacant at site. The possession as well as the *Kabza Karwahi* along-with the mutation had already been done and the land of the petitioners had affected the proposed planning for Industrial Group Housing, Green area and 30 meter wide road. In such circumstances, the recommendations of the Committee were that 16 acres of land was lying vacant and the compensation had already been lifted by the petitioners involved in the said petition.

5. In the written statement filed by respondents No.1 and 3-State, there is reference to the Rapat No.192 dated 20.01.2004 and the mutation



No.5081 dated 16.09.2013 and the fact that the land of the petitioners affects the proposed planning of Industrial Group Housing, Green area and 30 meters wide road and the fact that the compensation as well as enhanced compensation has already been lifted by the petitioners, which fact has not been mentioned by the petitioners.

Facts of CWP No.1144 of 2020

6. In the instant petition filed by petitioners Jagpal Rathee and others, it has been pleaded by them that they are owners of the land in question to the extent of their shares and resultantly, vide the impugned order dated 03.06.2019 in pursuance of the earlier directions, the area had been quantified as 06 acres 02 Kanals 06 Marlas which is lying vacant at the site and the possession had already been taken by way of *Kabza Karwahi*. Reference has been made to the land which has been released, as has already been mentioned above, on 11.03.2013 in favour of the industry concerned. The petitioners' land is stated to be, thus, duly acquired as per the award and therefore, vide impugned order dated 03.06.2019, it was held that the proceedings have not lapsed under Section 24(2) of the 2013 Act.

7. In the written statement, the stand of respondents No.1 and 3-State is that the land of the petitioners affects the planning of 18 meters wide road, Industrial plots of Industrial Sector – 18, 18-A and 19 (part), IE, Bahadurgarh. It has also been mentioned that earlier, the amount of compensation had already been lifted by the petitioners and therefore, no lapse can be sought by the petitioners under Section 24(2) of the 2013 Act.



Facts of CWP No.1038 of 2020

8. In this petition filed by petitioners Sita Ram and others, the detail of the land is projected as 06 Kanals to the extent of their share. As per the impugned order dated 03.06.2019, the acquired land of the petitioners measuring 14 acres 06 Kanals 18 Marlas is lying vacant at site and the compensation had already been lifted by the petitioners involved in the said petition. The enhanced compensation including the land of the petitioners stands deposited with the DRO-cum-LAC, Jhajjar for payment to the land owners.

9. In the written statement filed by respondents No.1 and 3-State, it has been clarified that the *Kabza Karwahi* was done vide Rapat No.192 dated 20.01.2004 and the mutation No.5081 was also sanctioned on 16.09.2013. The land has been acquired for public purpose, as mentioned above, as per the lay out plan. The compensation as well as the enhanced compensation has already been lifted by the petitioners and this fact has been concealed by them.

Reasoning for Dismissal

10. The pleadings have, now, been scanned. The factual aspect of the matrix comes forth that the twin conditions of violation for the purpose of lapsing are not fulfilled as per the law laid down by the Constitutional Bench in *Indore Development Authority Versus Manohar Lal and others (2020) 8 SCC 129*. Rather, there is a concealment of facts that the compensation had already stood deposited and even the petitioners have



taken the enhanced compensation by filing Reference Petition under Section 18 of the 1894 Act. In such circumstances, paragraph No.224 of the above-said judgment would also come into play, which reads as under:-

“224. Thus, in our opinion, the word "paid" used in Section 24(2) does not include within its meaning the word “deposited”, which has been used in the proviso to Section 24(2). Section 31 of the Act of 1894, deals with the deposit as envisaged in Section 31(2) on being ‘prevented’ from making the payment even if the amount has been deposited in the treasury under the Rules framed under Section 55 or under the Standing Orders, that would carry the interest as envisaged under Section 34, but acquisition would not lapse on such deposit being made in the treasury. In case amount has been tendered and the land-owner has refused to receive it, it cannot be said that the liability arising from non-payment of the amount is that of lapse of acquisition. Interest would follow in such a case also due to non-deposit of the amount. Equally, when the land-owner does not accept the amount, but seeks a reference for higher compensation, there can be no question of such individual stating that he was not paid the amount (he was determined to be entitled to by the collector). In such case, the land-owner would be entitled to the compensation determined by the Reference court.”

11. Resultantly, we are of the considered opinion that having taken the compensation and on the other hand also having enjoyed the usage of the land for all these long years, the petitioners are not entitled to



any further indulgence by this Court. The respondent-State has already justified the issue of discrimination by noticing that the release orders have been issued in their favour and on account of certain land owners approaching this Court and securing order in their favour and on account of having construction in the form of industry as such and therefore, the petitioners cannot claim any discrimination. Even otherwise, filing of these writ petitions at the belated stage after a period of 18 years are not liable to be entertained on account of the law laid down by the Apex Court in ***Municipal Corporation of Greater Bombay Versus The Industrial Development & Investment Company Pvt. Ltd., 1996 (11) SCC 501; Jasveer Singh and others Versus State of U.P. and another, 2017 (6) SCC 787 and Government of A.P. and others Versus Kollutla Obi Reddy and others, AIR 2006 SC 642.***

12. Since we are dismissing these writ petitions in *limine* as notice of motion was never issued, we do not impose any cost upon the petitioners.

**(G.S. SANDHAWALIA)
JUDGE**

September 23, 2024
Yag Dutt

**(MEENAKSHI I. MEHTA)
JUDGE**

Whether speaking/reasoned: Yes
Whether Reportable: No