



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on: 03.05.2024
Pronounced on: 27.05.2024

1. CWP-3927-1994 (O & M)

BACHAN LAL (THROUGH LRs.)AND OTHERSPetitioners

Versus

STATE OF PUNJAB AND ANOTHERRespondents

2. CWP-5224-1994

RAMJI DAS AND OTHERSPetitioners

Versus

STATE OF PUNJAB AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Kanwal Goyal, Advocate
Mr. Ankit Rana, Advocate and
Ms. Sheena Dahiya, Advocate
for the petitioner(s) (in CWP-3927-1994).

Mr. Surinder Garg, Advocate
for the petitioner(s) (in CWP-5224-1994).

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Sanjeev Soni, Advocate
for respondent No. 3 – Punjab Mandi Board.

SURESHWAR THAKUR, J.

1. Since both the writ petition(s) arise from common theretos
notification(s) issued under Section 4 of the Land Acquisition Act,
1894 (hereinafter for short called as the 'Act of 1894'), besides also

2024.PHHC.076967-DB



arise from common theretos declaration(s) issued under Section 6 of the 'Act of 1894'. Therefore, both the writ petition(s) are amenable for becoming decided through a common verdict.

2. The said notification(s) became respectively issued on 22.07.1991 and on 10.02.1992.

3. Be that as it may, the facts of both the writ petition(s) (supra) are yet required to be separately delineated.

Facts of CWP-3927-1994

4. The petitioners seek the quashing of the acquisition notification(s) thus on the premise, that they are running *chakki* and saw mill over the acquired lands thereupon, unless the acquisition notification(s) are quashed, thereby they would be deprived of their only source of livelihood. Moreover, it is also contended that the petitioners buildings are situated in one corner of the acquired lands and are not at all required for the relevant public purpose. The acquisition notification(s) are bad in law, therefore, they be quashed and the petition lands be released from acquisition.

Facts of CWP-5224-1994

5. The petitioners seek quashing of the acquisition notification(s) thus on the premise that they have constructed buildings on the acquired lands by spending huge amounts and are also residing therein besides therefroms they are operating their business, as such they contend that if the subject lands are not released from acquisition thereupon, they would be deprived of their only source of livelihood.

Moreover, it is also contended that the petitioners buildings are situated

2024.PHHC.076967-DB



in one corner of the acquired lands and are not at all required for the relevant public purpose. The acquisition notification(s) are bad in law, therefore, they be quashed and the petition lands be released from acquisition.

Common submissions of the learned counsel for the petitioner(s).

6. The learned counsel for the petitioner(s) submit that no wide publicity was made of the acquisition notification(s). However, on learning about the same, the petitioner(s) filed objections but no opportunity of hearing was given to them. They further contend that till date the petitioner(s) are not aware about the fate of their objections.

7. The counsel for the petitioners further contend(s) that the respondents without complying the mandatory provisions embodied in Section 5-A of the 'Act of 1894' rather have taken to issue the declaration/notification dated 10.02.1992. Therefore, the learned counsel for the petitioner(s) contend(s) that the acquisition notification(s) as issued qua the subject lands are vitiated and as such are required to be quashed and set aside.

8. In support of their arguments, the learned counsel for the petitioner(s) have placed reliance on a judgment rendered by the Apex Court in case titled as '**Union of India and Others Vs. Shiv Raj and Others**', reported in **2014 (2) Apex Court Judgments (SC) 451**. The relevant paragraphs whereofs are extracted hereinafter.

“8. The rules of natural justice have been ingrained in the scheme of Section 5-A of the Act 1894 with a view to ensure that before any person is deprived of his land by way of compulsory acquisition, he must get an opportunity to oppose the decision of the State Government and/or its agencies/instrumentalities to acquire the

2024.PHHC.076967-DB



particular parcel of land.....

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9. Therefore, Section 5-A of the Act 1894 confers a valuable right in favour of a person whose lands are sought to be acquired. It is trite that hearing given to a person must be an effective one and not a mere formality. Formation of opinion as regard the public purpose as also suitability thereof must be preceded by application of mind having due regard to the relevant factors and rejection of irrelevant ones. The State in its decision making process must not commit any misdirection in law. It is also not in dispute that Section 5-A of the Act, 1894 confers a valuable important right and having regard to the provisions, contained in Article 300A of the Constitution of India has been held to be akin to a fundamental right.

10. Thus, the limited right given to an owner/person interested under Section 5-A of the Act, 1894 to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away only for good and valid reason and within the limitations prescribed under Section 17(4) of the Act, 1894.

11. The Land Acquisition Collector is duty-bound to objectively consider the arguments advanced by the objector and make recommendations, duly supported by brief reasons, as to why the particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Land Acquisition Collector should reflect objective application of mind to the entire record including the objections filed by the interested persons.

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15. In view of the above, the law on the issue can be summarised to the effect that the very person/officer, who accords the hearing to the objector must also submit the report/ take decision on the objection and in case his successor decides the case without giving a fresh hearing, the order would stand vitiated having been passed in violation of the principles of natural justice...”

9. Further, reliance has been made on a judgment rendered by the Apex Court in case titled as 'Women Education Trust and another Vs. State of Haryana and Others', to which Civil Appeal No.4457 of 2013 became assigned. The relevant paragraphs of the said verdict are

2024.PHHC.076967-DB



extracted hereinafter.

4. *In Kamal Trading (P) Ltd. v. State of West Bengal (supra), this Court made the following observations:*

“It must be borne in mind that the proceedings under the LA Act are based on the principle of eminent domain and Section 5-A is the only protection available to a person whose lands are sought to be acquired. It is a minimal safeguard afforded to him by law to protect himself from arbitrary acquisition by pointing out to the authority concerned, inter alia, that the important ingredient, namely, "public purpose" is absent in the proposed acquisition or the acquisition is mala fide. The LA Act being an expropriatory legislation, its provisions will have to be strictly construed.

Hearing contemplated under Section 5-A(2) is necessary to enable the Collector to deal effectively with the objections raised against the proposed acquisition and make a report. The report of the Collector referred to in this provision is not an empty formality because it is required to be placed before the appropriate Government together with the Collector's recommendations and the record of the case. It is only upon receipt of the said report that the Government can take a final decision on the objections. It is pertinent to note that declaration under Section 6 has to be made only after the appropriate Government is satisfied on the consideration of the report, if any, made by the Collector under Section 5-A(2). As said by this Court in Hindustan Petroleum Corpn. Ltd., the appropriate Government while issuing declaration under Section 6 of the LA Act is required to apply its mind not only to the objections filed by the owner of the land in question, but also to the report which is submitted by the Collector upon making such further inquiry thereon as he thinks necessary and also the recommendations made by him in that behalf.....

6. *The principles which can be culled out from the above-noted judgments are as under:*

(i) The rule of audi alteram partem engrained in the scheme of Section 5A of the Act ensures that before depriving any person of his land by compulsory acquisition, an effective opportunity must be given to him to contest the decision taken by the State Government /competent authority to acquire the particular parcel of land.

(ii) Any person interested in the land, which has been notified under Section 4(1) of the Act, can file objections under Section 5A(1) and

2024.PHHC.076967-DB



show that the purpose specified in the notification is really not a public purpose or that in the guise of acquiring the land for a public purpose the appropriate Government wants to confer benefit upon private persons or that the decision of the appropriate Government is arbitrary or is vitiated due to mala fides.

(iii) In response to the notice issued by the Land Acquisition Collector under Section 5A(2) of the Act, the objector can make all possible endeavours to convince the Land Acquisition Collector that the acquisition is not for a public purpose specified in the notification issued under Section 4(1); that his land is not suitable for the particular purpose; that other more suitable parcels of land are available, which can be utilized for execution of the particular project or scheme.

(iv) The Land Acquisition Collector is duty bound to objectively consider the arguments advanced by the objector and make recommendations, duly supported by brief reasons, as to why the particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Land Acquisition Collector should reflect objective application of mind to the entire record including the objections filed by the interested persons.

xxxx xxxx xxxx ”

10. In sequel, the learned counsel for the petitioner(s) argue that since for want of personal hearing being granted to the petitioners by the respondents, during the course of the respondent concerned, making a hearing upon the objections, as became preferred under Section 5-A of the 'Act of 1894', thereupon, there is violation of the principle of *audi alteram partem* besides therebys the petitioner(s) have been unjustifiably condemned unheard.

11. In consequence, it is submitted before this Court that the above breaches made to the principle of *audi alteram partem*, thus besets the notification(s) for acquisition with the ill consequence of

2024.PHHC.076967-DB



theirs being vitiated and thereby theirs becoming required to be quashed and set aside.

Reply of respondent No. 2 (in CWP-3927-1994.)

12. Joint objections (in one application) to the acquisition proceedings became submitted by the petitioner(s) on 14.08.1991. To the said objections, as became made against the issuance of Section 4 notification, the Land Acquisition Collector, Colonization Department, Punjab vide letter No. PK/Gidderbaha-1983, dated 09.09.1991 sent a notice to the objectors to remain present in the Office Market Committee at 11 AM on 20.09.1991 and with an intimation that the objections, as became filed by them shall be decided at the spot. Pursuant to the said notice, petitioner No. 4 – Chajju Ram recorded his presence on 20.09.1991, for himself as well as on behalf of the other petitioners and especially on the said date, the hearing of the objections was made. However, the objections as became filed by petitioner No.4- Chajju Ram under Section 5-A of the 'Act of 1894' for himself as well as for the other estate holders concerned, though became considered but were rejected by the Land Acquisition Collector. Thereafter, the declaration under Section 6 of the 'Act of 1894' became published in two newspapers and the last date of publication of the declaration in the English Tribune was 26.02.1992. Further, the petitioners also filed claim under Section 9 of the 'Act of 1894'. Petitioner No. 4 became present before the Land Acquisition Collector on 28.10.1992 and also made a statement on behalf of all the petitioners. Thereafter, award dated 24.02.1994 was pronounced and the compensation amount

2024.PHHC.076967-DB



assumed through rapat No.229 dated 24.02.1994.

Reply of respondent No. 2 (in CWP-5224-1994.)

13. Petitioners No. 2 to 6, 10 to 13 and 16 have not filed objections under Section 5-A of the 'Act of 1894'. The petitioners, who filed objections were given hearing at the time of hearing of the objections by the Land Acquisition Collector. Petitioners No. 1, 2, 7, 8, 9, 14 and 15 were present on 20.09.1991, at the time of hearing of objections under Section 5-A of the 'Act of 1894'. The objections as became filed by the petitioners were duly considered and rejected. Thereafter, the declaration under Section 6 of the 'Act of 1894' became published in two newspapers and the last date of publication of the declaration in the English Tribune was 26.02.1992. Further, petitioners Nos, 1, 3, 5 to 10, 12, 15 and 16 also filed claims under Section 9 of the 'Act of 1894'. Petitioners No. 7, 8 and 16 became present before the Land Acquisition Collector on 28.10.1992 and also made their respective statements. Thereafter, award dated 24.02.1994 was pronounced and the compensation amount became tendered. The possession of the acquired lands became assumed through rapat No.229 dated 24.02.1994.

Inference of this Court.

14. For the reasons to be assigned hereinafter, the arguments raised before this Court by the counsel for the petitioner(s) are rejected and the arguments addressed before this Court by the learned Senior Deputy Advocate General, Punjab as well as the contentions raised in the reply(ies) furnished to the writ petition(s) are accepted.

15. Significantly, in-so-far as **CWP-3927-1994** is concerned,

2024.PHHC.076967-DB



the counsel for the petitioners in the said writ petition, has vociferously submitted, while relying upon the expostulations of law (supra) as carried in the judgments (supra) made by the Apex Court, thus qua for want of personal hearing being granted to the aggrieved-estate holders concerned, vis-a-vis their objections, to the acquisition of the subject lands, thereby the principle of *audi alteram partem* became breached besides therebys the land losers concerned, became condemned unheard. Resultantly, thereby he has contended that the acquisition notification(s) are vitiated and are required to be quashed and set aside.

16. However, when it is apparent on a closest reading of the reply on affidavit, besides the signed synopsis, submitted by the learned State counsel in CWP-3927-1994, that since petitioner No. 1- Bachan Lal (deceased) and petitioner No.4- Chajju Ram, on the date stated on the summons issued upon them, made their respective personal appearance(s) before the authority concerned, for theirs becoming personally heard by the designated authority, besides when it is also evident on a reading of the said synopsis, that they then made a joint signed written statement, that their written objections be treated to be the ones which all intend to personally express. Consequently, when petitioner No. 1- Bachan Lal and petitioner No. 4 – Chajju Ram, do not dispute their signatures, as made by them on 20.09.1991, thus on a joint signed statement made before the Land Acquisition Collector, therebys they are deemed to be making statements not only for themselves but also for the other land losers concerned. Resultantly, given for the other land losers concerned, rather

2024.PHHC.076967-DB



concerned, in pursuance to summons becoming issued upon them, thereupon they are deemed to waive/abandon the said afforded opportunity to them, to personally record their appearance(s) on the date stated in the summons, besides they also deemed to accept the joint signed statement made by Bachan Lal and Chhajju Ram on 20.09.1991, thus being also statements made on their behalf by the above. Moreover, it is also got to be inferred, that in terms of the statements made by the afore on 20.09.1991, whereby the signatories thereto, but expressed that the said statements are made for themselves as well as for the other aggrieved estate holders, qua such statements being made by the signatories concerned, not only for themselves but also on behalf of the other non appearing estate holders concerned, who however despite intimation being made to them thus did not cause their respective personal appearance(s) on the relevant date before the authority concerned.

17. In other words, the petitioners when became intimated of the relevant date for their personal hearing being made on their objections, whereas, theirs not causing their respective personal appearance(s) before the Land Acquisition Collector, thereby they cannot now contend before this Court that they have been condemned unheard.

18. Contrarily, they are deemed to waive or abandon the opportunity assigned to them to make their respective personal appearance(s) before the Land Acquisition Collector, on the date intimated to them for hearing of their respective objections.

2024.PHHC.076967-DB



petitioner No.4- Chajju Ram under Section 9 of the 'Act of 1894' he has most candidly spoken therein, that the said statement, has been made not only for himself but also for the other land losers concerned. However, the making of the said signed statement for himself and for other petitioners has not been disputed by the petitioners to be made without any authorization. Therefore, for want of an averment to the said effect, the petitioners are deemed to accept that the signed statement made by petitioner No. 4 - Chajju Ram on 28.10.1992 under Section 9 of the 'Act of 1894' was not only for himself but also on behalf of the other land losers concerned. Resultantly, thereby it can also be said that there was neither any breach caused to the principles of *audi alteram partem* nor the petitioners became condemned unheard.

20. In nutshell the counsel for the petitioners cannot contend that any purported breach became caused to the principles of natural justice nor he could argue that on account of the petitioners becoming condemned unheard that therebys the notification(s) for acquisition of the subject lands, become vitiated and that they are required to be quashed and set aside.

21. Arguments similar to the ones as raised by the counsel for the petitioners (in CWP-3927-1994) have been raised by the counsel for the petitioners (**in CWP-5224-1994**). However, yet a reading of the reply on affidavit furnished to the writ petition, speakings emerge that on the date stated in the summons i.e. 20.09.1991, which became served to the petitioners, yet only petitioner Nos. 1, 2, 7, 8, 9, 14 and 15, then caused their respective personal appearance(s), before the Collector

2024.PHHC.076967-DB



their personal appearance(s). Therefore, since only the said petitioners cast their objections under Section 5-A of the 'Act of 1894' and also when they were given an opportunity of theirs being personally heard on their objections, opportunity whereof became abandoned by some, thereby it cannot be said that the petitioners concerned, were condemned unheard nor can they contend that there was any breach to the norm of *audi alteram partem*.

22. Be that as it may, co-petitioners No. 2 to 6, 10 to 13 and 16 did not take to prefer objections under Section 5-A of the 'Act of 1894' thereby the non preferment of objections by the said co-petitioners, rather tantamounts to theirs abandoning or waiving an opportunity to raise objections to the acquisition of their respective estates. Resultantly thereby they are forbidden to at this belated stage, thus contend before this Court that they were neither given any opportunity to file objections under Section 5-A of the 'Act of 1894' nor they can contend that no personal hearing became granted to them at the stage when the Land Acquisition Collector concerned proceeded to make a dismissal order on the objections, as became preferred only by co-petitioner Nos. 1, 2, 7, 8, 9, 14 and 15.

Further contention(s) of the learned counsel for the petitioner(s) and reasons for rejecting the same.

23. The learned counsel for the petitioner(s) have argued, that since the award has been pronounced, beyond a period of two years since the making of a declaration under Section 6 of the 'Act of 1894', therefore, the award is vitiated.

24. However, the above argument is merit-less, as it is

2024.PHHC.076967-DB



indicated in the reply on affidavit, that the substance of the notification dated 10.02.1992 issued under Section 6 of the 'Act of 1961' was published and was given a wide publicity through press and in the locality through munadi. The last date of publication of the declaration under Section 6 of the 'Act of 1961' was 26.02.1992 in the English Tribune and the award under Section 11-A of the 'Act of 1894' was announced on 24.02.1994. Thus, thereby the award was made within the prescribed period of two years.

25. In addition, the argument as to the allotment of alternative residential/commercial sites to the affected persons, pales into insignificance, as the petitioners have been awarded just and reasonable compensation and the same becoming available for being released to the land losers concerned, besides given the possession of the acquired lands becoming assumed by the acquiring authority through rapat possession No. 229 dated 24.02.1994. Therefore, the launched acquisition proceedings but have become fully and lawfully concluded.

26. Moreover, thus a further inference also spurs from the above that, the present petitioners are not entitled to make any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the 'Act of 2013' as the acquiring authority in terms of the verdict recorded by the Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129*** has adduced sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined

2024.PHHC.076967-DB



becoming available for being released to the land losers concerned. Moreover, when the said events evidently happened before the coming into force of the 'Act of 2013', therebys too, the claim raised by the petitioners that they are entitled to a lapsing declaration in terms of the provision (supra), thus deserves rejection.

27. Conspicuously also since it has been stated, in the reply on affidavit furnished to the writ petition, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose than the ill individualistic interest of the petitioner(s), is rather to be furthered. Resultantly, this Court finds no merit in the instant petition, and, is constrained to dismiss it.

Final Order of this Court.

28. In aftermath, this Court finds no merit in the writ petition(s), and, with the above observations, the same are dismissed. The impugned notification(s), and the consequent thereto award(s) are maintained and affirmed.

29. No order as to costs.

30. Since the main case(s) itself have been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

27.05.2024
kavneet singh