

2024:PHHC:077186-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-8263-1993 (O & M)
Reserved on: 01.05.2024
Pronounced on: 27.05.2024

RAMESH KUMAR AND ORS.Petitioners

Versus

STATE OF HARYANA AND ORS.Respondents

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

Argued by: Mr. Shailendra Jain, Senior Advocate with
Ms. Navneet Kaur, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana
for respondents No. 1 and 2.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for respondent No. 3.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification(s) Annexures P-1 and P-2. The said notification(s) were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894').
2. The petitioners herein have raised a plea that they have been discriminated vis-a-vis the similarly situated persons namely Hari Singh and Sukhbir Singh sons of Baldev Singh residents of village



Gurgaon, especially when the lands of above as carried in khasra No.3045/1, measuring 2138 square yards, thus became released by respondent No. 3 vide letter No. SI-90/1931 dated 04.05.1990, yet the subject lands despite being amenable to become treated at par with the lands of above, rather theirs remaining un-released to them.

3. In this regard, a perusal of the reply on affidavit reveals that the petitioners have earlier filed three civil writ petition(s) challenging the acquisition proceedings and all the said writ petition(s) became dismissed by this Court.

4. The operative part of the orders passed on the said writ petition(s) are extracted hereinafter.

CWP-999-1986

“..... It has been pleaded in the written statement that no even 20 sq yards of land has been released rather the entire land has been acquired as there was no shop, room boundary wall and poultry farm at the time of issuance of the notification under Section 4 of the Act. The assertion made in paragraph 2 of the petition having been denied, thus, resulting into a disputed question of fact, no meaningful relief can be granted in this writ petition. The petition is thus, devoid of merit and the same is dismissed with no order as to costs.”

CWP-1537-1993

“.... Petitioners, without disclosing that they made an abortive attempt to challenge the notifications issued under Section 4 and 6 of the L.A. Act., 1894 dated 25-3-1985 and 16-1-1986 respectively, seek the same relief on the solitary ground that compensation with regard to the land was neither assessed nor deposited in



the Court nor made available to them. The stand of the petitioner is belied from the return filed on behalf of respondent No. 2 as objection filed by the petitioners under Section 5-A of the aforesaid Act were decided after the petitioners were heard in the matter and the award was announced on 14-1-1988, possession of the land was taken over then only and the amount of compensation was lying with the respondents and the petitioners are at liberty to withdraw the same at any time.”

CWP-6068-1993

“.... Dismissed with the observations that the petitioner would be entitled to file a fresh petition on the same cause of action specifying clearly that the land which has already been released was just similar and that any portion of the vacant land had no superstructured. It be also specified as to why the other two brothers of the petitioner are not coming forward to join the petitioner in the writ petition. It be further specified that the other two brothers did not file any similar petition before this Court.”

5. It is in pursuance to the aforesaid granted liberty in CWP-6068-1993, that the petitioners herein have filed the instant writ petition, thus raising therein the plea of discrimination becoming practiced vis-a-vis them by the respondents, rather in the latter not releasing the subject lands, whereas, theirs releasing the lands of other similarly situated land owners.

6. The said writ petition became listed before the Lok Adalat, and the same was disposed of vide order dated 06.12.2000, which is but a conditional order. The operative part of the said order is extracted hereinafter.

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“.....It will be a clear case of discrimination if the land of the petitioners is not released from acquisition when the land adjoining three sides of this land already stands released. The contention that it is commercial belt and the land which now stands released can be acquired again, legally cannot be accepted. As and when the land of others is acquired by issuing fresh notification, the matter can be examined afresh. But as far as the present writ petition is concerned, in spite of several representations having been made during the pendency of the writ petition, no relief was granted to the petitioners, who have been dealt with discriminately.

Hence we dispose of the writ petition with the direction to the respondents not to acquire the disputed land of the petitioners comprising Khasra Nos. 7353/3046 except small portion which comes under the road.

If the respondents object to the proposed order as above, they may move the High Court with the objection petition within two months for disposal of the writ petition on merits according to law.... ”

7. In view of the said assigned liberty, the respondents filed an objection petition, and thereupon the main petition was ordered to be listed for hearing on the judicial side.

8. For making an adjudication upon the instant controversy, it is apt to refer to the objections, as became preferred by the respondents in response to the conditional directions, as became passed by the Lok Adalat of this Court, whereby the writ petition was disposed of with a direction to the respondents to not acquire the subject lands, except a small portion whereof which comes under the road but subject to the objections being raised theretos by the respondents. The relevant



portion of the said objections become extracted hereinafter.

“5. That the case has been examined on the basis of the facts at the Head Quarter Level and the department is dissatisfied with the proposed order passed by the Hon'ble Lok Adalat because the land in question falls in the layout plan/demarcated plan as approved by the Govt. Thus, land has been kept reserved for commercial purpose of Sector – 5, Gurgaon. In case the land is released, it would not be possible to develop the land on integrated planned point of view.”

9. A reading of the relevant portion of the objections as became raised by the respondents, in response to the conditional order (supra), as became passed by the Lok Adalat of this Court on 06.12.2000, unfolds that the subject lands, are an integral component of the layout plans and as such are meant for furthering the requisite public purpose. Consequently, therebys since the preparation of the layout plan is done by the Engineering Cell of the acquiring authority. Moreover, since there is a legal interdiction against this Court to in the exercising of power of judicial review rather make any interference therewith or make tinkering with the same. Therefore, the consequential effect thereof, is that, utmost deference is to be meted to the said layout plan as therebys public interest becomes promoted. Moreover, when it is trite law that predominance is to be assigned to the public interest than to the ill individualistic interest of the land losers concerned.

10. A further corollary thereof, is that, if the lands of other purportedly similarly situated land losers concerned became released

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thereby the said releases are deemed to be made on the premise, that their lands were covered within the relevant policy and/or the said made releases were made on the ground, that the said lands were not an integral component of the layout plans, whereas, when for reasons (supra), the subject lands are integral component of the layout plans, whereby when they facilitate the requisite public purpose. Resultantly, thereby there is no parity inter-se the present petitioners with those estate holders concerned whose lands became released.

11. Furthermore, a perusal of para No. 3 of the preliminary objections preferred by respondent No. 2 in its written statement furnished to the writ petition reveals, that the subject lands became acquired vide award dated 14.01.1988 and the possession thereof was taken over and subsequently handed over to the Estate Officer, Haryana, Urban Development Authority, Gurgaon.

12. In addition, a perusal of para No. 5 of the said reply on affidavit also reveals that the amount of compensation is lying unpaid and the petitioners are at liberty to withdraw the same.

13. The facts (supra), as occur in the reply on affidavit, also bolsters an inference that thereby 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short refer to as the 'Act of 2013'), simply for the reason that the acquiring authority in view of the evident facts (supra), thus has in terms of the verdict recorded by the Hon'ble Apex



Court in *Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129*, adduced sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being assumed over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for therebys its 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 the makings of a lapsing declaration in terms of the provision (supra), thus deserves rejection.

Final Order of this Court.

14. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notification(s), and consequent thereto award are maintained and affirmed.
15. No order as to costs.
16. Since the main case itself has 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

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No