

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-1706-1996 (O & M)
Reserved on: 09.04.2024
Pronounced on: 24.04.2024

NARAIN SINGH AND ANR.Petitioners

Versus

STATE OF HARYANA AND ORS.Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Argued by: Mr. Rishabh Jain, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. P.P.Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. LAC (P)-92/NTLA/179 dated 10.12.1992 (Annexure P-1), and, also seek the quashing of notification bearing No. LAC (F)-NTLA-93/245 dated 07.12.1993 (Annexure P-3). The said notification(s) were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894') thus for the public purpose namely, development of residential Sector - 2, Palwal.
2. The principal ground as raised in the instant writ petition rather by the petitioners for theirs seeking the writ reliefs, is grounded in the factum, that the subject properties, though became raised on the disputed lands but prior to the issuance of notification under Section 4 of the 'Act of 1894' yet the acquiring authority not releasing them from acquisition.

3. Moreover, the further ground as raised in the instant writ petition rather for challenging the Annexures (supra), is rested, on the premise that the acquiring authority in not releasing the subject lands from acquisition, thereby it has breached the mandate of this Court recorded on 03.02.2012, upon CWP No. 15546 of 1995 and other connected petition(s), whereby this Court after quashing the impugned therein acquisition notification(s), rather proceeded to permit the land losers therein to retain possession over the subject lands.

4. The learned counsel for the petitioners has argued, that when there is almost close identity inter-se the notification(s) challenged in the said petition, and, in the instant writ petition, thereby but naturally the relief as became granted in the verdict (supra) is also to be accorded to the present petitioners.

5. However, for the reasons to be assigned hereinafter, the relief as claimed in the instant petition, thus for quashing the notification(s) (supra), as became made respectively under Sections 4 and 6 of the 'Act of 1894', rather is not required to be accorded nor any relief relating to the petitioners being permitted to yet invoke the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short called as 'the Act of 2013'), thus is to be accorded to them.

6. The subject lands are comprised in Khasra Nos. 78//3 Min (7K-10M), 26 (1K-12M), 626 (1K-19M) situated in village Palwal, District Palwal. It is stated in the reply, on affidavit, that the petitioners filed objections under Section 5A of the 'Act of 1894', thus seeking an

existed a built up structure of a school, besides other amenities. After affording an opportunity of hearing to the petitioners, the acquiring authority had released in favour of the petitioners 1 kanal 5 marla land (756.25 square yards) having built up structure of the school and with an equivalent vacant area falling in Khasra No. 78//3. After release of the aforesaid 1K-5M portion of land from Khasra 78//3, a declaration under Section 6 of the 'Act of 1894' was made in respect of the vacant land falling in Khasra Nos. 78//3 Min (6K-5M), 26 (1K-12M), 626 (1K-19M) of village Palwal, District Palwal, and, subsequent thereto an award No. 19 dated 06.12.1995, was passed.

7. Therefore, it is contended that since on the apposite objections as became raised by the petitioners under Section 5A of the 'Act of 1894', thus orders of releases were made but of built up structure (school), whereas, yet qua the remaining vacant land, rather the acquisition notification(s) remained intact besides an award become passed. Resultantly, the acquisition notification(s) and the subsequent thereto passed award do not require any interference.

8. Be that as it may, since it is also stated in the reply, on affidavit that the subject lands are an integral component of the layout plan besides are direly required for completing the developmental works, inasmuch as the subject lands affect not only the green belt, besides also affect the site of the 9 meter road, park, and also affect about 44 Nos. of 3 marla category plots. If so, the petitioners cannot raise any claim for this Court making any tinkering with the layout plans, as therebys this Court would be making ill tinkering with the said layout plans.

9. Furthermore, it is also stated, on reply on affidavit, that an immense expenditure has been incurred by the respondent concerned, in undertaking various developmental activities over the acquired lands. Resultantly also therebys this Court cannot make any order for releasing the petitioners lands, as therebys the expendings of substantial sums of monies towards the developmental works executed over the acquired lands, thus would become rendered nugatory, whereby loss would ensue to the public exchequer.

10. Though the learned counsel for the petitioners by relying upon the decision made by this Court, upon **CWP No. 15546 of 1995**, titled as '**Gulshan Malik and Ors. Vs. State of Haryana and Ors**' decided on 03.02.2012, have argued that in terms thereof, the instant writ petition be also allowed.

11. However, for the reasons to be assigned hereinafter, the reliance as made upon the said decision is a mis-placed reliance, as the verdict (supra) became confined but only in respect of the lands located in District Faridabad, and, did not relate to the lands appertaining to Sector – 2 , Palwal, especially when the connected petition(s) appertaining to Sector – 2, Palwal, were ordered to be listed for further hearing, besides when the notification(s) challenged in the verdict (supra) and also the awards, as became rendered in the said writ petition(s) rather are distinct from the notification(s) challenged in the instant writ petition, besides the award rendered in the writ petition (supra) is contra distinct to the award rendered in the instant case. Resultantly, therebys there is no well founded leverage in the petitioners for theirs claiming parity with the petitioners in the writ

12. Furthermore, from a perusal of reply, on affidavit, it is revealed that the possession of the subject lands became assumed through rapat roznamcha No. 304 dated 06.12.1995, whereafter the possession thereof was handed over to the beneficiary department and award No. 19 dated 06.12.1995 was pronounced in respect of the subject lands.

13. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that out of the total amount of assessed compensation, thus 94 % of the compensation amount rather becomes disbursed to the land losers concerned. Furthermore, it has been stated that as far as the compensation of the land of the petitioners is concerned, despite the same becoming tendered, yet the petitioners not seeking disbursement(s) thereof, leading to the same becoming deposited in the Court of Additional District and Sessions Judge, Palwal, for thereby it becoming available for becoming released to the land losers concerned.

14. Therefore, the effect of the above, is naturally qua the respondent concerned, thus adducing adequate discharging evidence in respect of the hereafter duo of parameters, as, spelt by the Hon'ble Apex Court in its verdict rendered in case titled as 'Indore Development Authority Versus Manoharlal and others', to which SLP (Civil) Nos. 9036-9038 of 2016, has been assigned,

a) Rapat possession becoming assumed over the acquired lands by the acquiring authority before the coming into force of the 'Act of 2013');

b) the assessed compensation amount becoming deposited

when the said deposits have been made prior to the coming into force of the 'Act of 2013'.

15. Resultantly the petitioners also thereby cannot claim the making of a lapsing declaration in terms of Section 24 (2) of the 'Act of 2013'.

16. Since, thereby the subject lands but free from all encumbrances thus becomes completely vested in the acquiring authority. Resultantly thereby the occupation of the petitioners, over the subject lands rather is as trespassers thereovers and the petitioners are required to be lawfully evicted therefrom.

Final Order of this Court.

17. 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.

18. No order as to costs.

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

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

24.04.2024

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