



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.13580 of 1999(O&M)
Date of Decision: 13.08.2024

M/s Spintex (India) & another
.....Petitioners
Versus
State of Haryana & others
...Respondents

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

Present:- Mr. Akshay Jindal, Advocate,
for the petitioners.

Mr. Ankur Mittal, Additional AG, Haryana with
Mr. Saurabh Mago, DAG, Haryana.

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G.S. SANDHAWALIA J. (Oral)

Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India, is to the notification dated 10.05.1989 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (for short, ‘the Act of 1894’) and the subsequent notification dated 09.05.1990 (Annexure P-3) issued under Section 6 of the Act of 1894. The Award No.4 dated 07.05.1992 (Annexure P-5), along-with the supplementary Award No.5 dated 12.11.1994 (Annexure P-7), are also subject matter of challenge.

2. It is pleaded that the land owned by both the petitioners measures 3 kanals 17 marlas in Killa No. 6/5/1 (3-12), 7/1//1/1 (0-5) and 7 kanals 16 marlas in Killa No.4/21//2/1(2-10), 5/25/2(3-10), 6/5/1(0-9), 7/1/3(1-7) falling in Sarai Bachhra, Panipat vide the sale-deeds dated



09.03.1989 in their favour. It is pertinent to notice that a sum of the total acquired land comes to 11 kanals and 13 marlas and this is in contradiction to the alleged objections dated 11.06.1989 (Annexure P-2) filed by the petitioners themselves wherein they claimed to be owner in possession of 15 kanals 13 marlas as per the sale-deeds dated 09.03.1989. The averment made by the petitioners is that they had purchased the land for setting up a spinning mill and raised construction on the same. It is also pertinent to notice that the purchase was made as per sale-deeds dated 09.03.1989 and the notification under Section 4 of the Act of 1894 was issued two months later, i.e 10.05.1989. The acquisition was for development and utilization of land for industrial institutions, residential and commercial area for Sectors 6, 7 and 8, Panipat. The averment made is that there was no proclamation made but however, the petitioners had submitted objections under Section 5-A of the Act of 1894 on 11.06.1989 which is contradictory in itself. They claimed that their objections have not been heard and that their land was not included in the supplementary Award No.5 on 12.11.1994 (Annexure P-7) and therefore, there was no acquisition as such.

3. There is also an averment that a Civil Suit for declaration had been filed by the petitioners and an *ad-interim* injunction was granted on 05.05.1992 which was later on vacated on 22.05.1992. Finally, the injunction application was dismissed by the trial Court on 05.04.1995 and the same was upheld by the learned Additional District Judge, Panipat, on 07.06.1995. Thus, the argument sought to be raised is that the Award was not passed within two years from the date of the notification issued under Section 6 of the Act of 1894. An averment was also made regarding the release of acquired land to one Usha Rani as per Annexure P-8 and a prayer has been made that they be given the same benefit.



4. It is pertinent to mention that the State has clarified in its written-statement regarding the benefit of such release already granted and it has specifically been mentioned that 8 kanals 18 marlas has been left out from the acquisition and that petitioner No.1-Vijay Kumar is not owner of the land as per the revenue record maintained by them which is apparently on account of the closeness between the dates of the purchase on 09.03.1989 and notification issued under Section 4 of the Act of 1894 on 09.05.1989. Similarly, there is absence of averments regarding the mutation having been entered in favour of the petitioners which substantiates the stand of the State. It is further averred that petitioner No.2 is the owner to the extent of 1/10 share out of the acquired land measuring 6 kanals 16 marlas and that 8 kanals 18 marlas was left out from acquisition which is also of the constructed area along-with proportionate area and therefore, the argument which has been raised that there was discrimination as the other person has been granted the benefit of release also fails though was concealed by the petitioners.

5. It has specifically been mentioned that the objections were not filed within the prescribed period of limitation and the land-owners/interested persons, who filed objections, were duly heard on 16.04.1990. After providing the proper opportunity of hearing, the Land Acquisition Collector made a report on individual objections and the same sent to Government for final decision. The constructed portion which could be adjusted has been released and the land/construction which could not be adjusted has been acquired and therefore, there is no discrimination.

6. The land of the petitioners was included in Award No.4 of 1992-93 dated 07.05.1992 (Annexure P-5) which is admittedly within the prescribed period having been passed within two years from the date of the



notification under Section 6 of the Act of 1894, i.e 09.05.1990. It is further not disputed that the land details, as such, have been mentioned in the notification under Section 6 of the Act of 1894 and thus, the Award has been passed.

7. The averments regarding the land not being included in the supplementary Award are, thus, inconsequential, as apparently, there was litigation going on which would also be clear from the supplementary Award (Annexure P-7) and the same goes on to show that 14 kanals 8 marlas was the subject matter of Award that has been stayed since 21.04.1992 which is prior to the announcement of the Award dated 07.05.1992 and the stay was vacated on 11.05.1994 and the Court had directed not to take further steps till one month while vacating stay. In such circumstances, apparently, the Award was passed for the land which is subject matter of litigation and therefore, the period of stay, as such, has been excluded. Even otherwise, the supplementary Award can not be the subject matter of consideration as the land was notified for acquisition under Section 6 of the Act of 1894 and the earlier Award 07.05.1992 (Annexure P-5) was passed by the Land Acquisition Collector.

8. It is specifically been averred that after the modification of the announcement of the Award, the possession was taken vide *Rapat Roznamcha* No.335 and the land/construction which could be adjusted was left out and the construction which could not be adjusted had been acquired. The amount of compensation has been duly offered to the land-owners but they had chosen not to take the same and in such circumstances, the State has rightly acquired the land. The record would also go on to show that much after passing of the Award on 07.05.1992 (Annexure P-5) and even after the supplementary Award was on 12.11.1994 (Annexure



P-7), this Court was approached only in the year 1999 by filing the instant writ petition and the interim order was only passed on 23.09.1999. The land having vested in the State seven years earlier, the writ petition would not be maintainable, at that stage.

9. Therefore, we are of the considered opinion that the petitioners are in unauthorised occupation of the land which was acquired and the land which was not required was released as has been mentioned by the State. In such circumstances, we do not find any plausible reasons to quash the acquisition proceedings as no discrimination has taken place. Resultantly, the writ petition is dismissed and the order dated 23.09.1999 regarding stay of dispossession stands vacated.

10. All the pending application(s), if any, stand disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

August 13, 2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No