

2024:PHHC:137662-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-7218-2020 (O&M)

Decided on: 21.10.2024

Satpal & others

.....Petitioner (s)

Versus

State of Haryana& others

....Respondent(s)

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

Present:- Mr.Sandeep Sharma, Advocate, for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana

Mr.Saurabh Mago, DAG, Haryana.

Mr.Vaneet Soni, Advocate, for

Mr.DeepakSabherwal, Advocate, for respondent No.3.

G.S. Sandhawalia, J. (Oral) :

1. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India is to the acquisition proceedings initiated on 12.12.2008 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') and the notification dated 11.12.2009 (Annexure P-2) along with the award dated 23.11.2011 (Annexure P-3) and the subsequent order dated 03.02.2020 (Annexure P-12) passed by the State rejecting their claim for release of the land on the issue on merits.

2. Vide a detailed order dated 19.06.2020, the Co-ordinate Bench noticed the issue whether the writ petition was maintainable or not. The said order reads as under:

“Hearing conducted through Video Conferencing.

The main writ petition wherein challenge has been laid to Notification under Section 4 dated 12.12.2008 (P-1) and Notification Under Section 6 dated 11.12.2009 as also award dated 23.11.2011 (P-3),

whereby the land of the petitioners measuring 4 Kanals 18 Marlas situated in village Nagliumarpur District Gurugram was acquired. The challenge is also to the speaking orders dated 3.2.2020 (P-12) passed by the Government declining the prayer of the petitioners for release of their land in the light of the judgments passed by this Court. The instant writ petition, is the second writ petition assailing the aforesaid Notifications as concededly the petitioner had earlier filed CWP No.13441 of 2014 challenging the same notifications and award, which was disposed of in the same terms as CWP No.11 of 2011 titled as Prem Singh &Ors. Vs. State of Haryana & Ors. which was decided on 19.10.2015 which in turn was disposed of in view of CWP No.11911 of 2011 titled as M/s Vishnu Apartments Pvt. Ltd. &Ors. Vs. State of Haryana & Ors. decided on 19.10.2015.

We have perused the said judgments which are available on record as (P-5 Colly), which find that the case of the petitioner is not at all covered under the directions of the said Court as admittedly the petitioners have never applied for grant of licence fee for developing the land as commercial area. Thus their prayer for quashing of the Notification in the earlier writ petition was not covered under the decision dated 19.10.2015. The said writ petition is stated to be listed for hearing on 16.07.2020.

Now CM No.5364 of 2020 has been filed seeking direction for staying the demolition of the residential house on the land of the petitioner which already stands acquired and his earlier writ petition already being disposed of.

We failed to understand as to how the petitioner can claim relief at this stage much less maintain the present writ petition.

List on 16.07.2020.”

3. Writ petition was, thereafter, repeatedly adjourned and got tagged with other matters on account of the issue of pendency before the Apex Court on the issue of lapsing, which was finally decided by the Apex Court in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496**. On 21.08.2024, we ordered de-tagging of the case from the bunch of cases and for listing it separately.

4. Counsel for the petitioners has vehemently argued that his case would be covered by the judgment of the Co-ordinate Bench in M/s Vishnu Apartments Pvt. Ltd. (supra).

5. Firstly, it is to be noticed that the petitioner in the said case approached this Court immediately after 23.11.2011 when the award had been passed. The petitioners herein did not seek any such legal redressal and accepted the acquisition proceedings. It is settled principle that if there is delay after the award is passed, then the Court is not to interfere in the acquisition proceedings. The first foray to keep the controversy alive was by way of filing CWP-13441-2014 which was disposed of in terms of decision in CWP-11-2011 titled *Prem Singh & others Vs. State of Haryana & others*. The said case had been disposed of in terms of M/s Vishnu Apartments Pvt. Ltd. (supra). A perusal of the same would go on to show that the issue therein was regarding the rejection of the application for grant of licence and which had been rejected on the ground that 50% of the land was reserved for Government entity and 50% was released to private entities. It is conceded position that the petitioners had never applied for licence and we do not see as to in what context and how they had sought consideration in the same terms and therefore, got an order to keep the controversy alive.

6. The petitioners, thereafter, filed Execution Application No.5 of 2018 whereby the Division Bench noticed that the order could not be executed as no effective relief was granted to them and they should file a writ petition. The order dated 20.03.2018 reads as under:

“The writ petition filed by the applicant-petitioners was disposed of as per their own statement being covered by the earlier decision of this Court dated 19.10.2015 passed in CWP No.11 of 2011(Prem Singh and others versus State of Haryana and others).

In our considered view, the said order cannot be executed as no effective relief was granted to the petitioners. In case their claim has not been considered by the Authority in terms of the order passed in Prem Singh and others' case (supra), the appropriate recourse for the petitioners would be to file a writ petition and not Execution Application.

With liberty aforementioned, the Execution Application is disposed of.”

7. Thereafter, CWP-10495-2018 was filed wherein the innocuous prayer made was that the writ petition be decided in terms of M/s Vishnu Apartments Pvt. Ltd. (supra) for release of the properties as per the Government policy or the observations made by the Court in the said case or any other order passed by this Court. It was noticed on 30.04.2018 by the Division Bench that acquisition was for development of commercial belt along southern peripheral road 62, 65 & 66 at Gurugram and the claim of the petitioner was that they were residents of Village Tigra. It was, in such circumstances, on the issue of the representation being decided, speaking order was passed by the Principal Secretary to Government of Haryana, Urban Estates Department on 03.02.2020 (Annexure P-12), which is now subject matter of challenge.

8. It is pertinent to notice that the said direction was passed without even taking reply or response from the State and the matter was disposed of on the first date of hearing and therefore, only on account of one-side projectment by the petitioners, the said order was passed. The Apex Court in **The Government of India and another Vs P. Venkatesh, 2019(15) SCC 613**, has held that the cause of action cannot be extended by filing a representation which was in principle the claim. It has been observed that ‘decide my representation mantra’ is the bane as such which leads to extended rounds of litigation and this is exactly the effect of the order that landowners have continued to be in possession though the award

was passed way-back on 23.11.2011 and the land had vested with the State in view of Section 16 of the Act. Vide the said impugned order, it has been mentioned that the land of the petitioners was vacant at the time of survey and there was a recommendation not to release the land as the petitioners were co-owners of the land and physical possession was with HSVP and they were setting up their commercial plots on prime urban location of HSVP which was affecting the 24 meters wide road along the sector dividing road of Sectors 62 and 57 towards Sector 62 and commercial belt of Sector 62, Gurugram. It was also specifically mentioned that the case was not identical to M/s Vishnu Apartments Pvt. Ltd. (supra) as projected and is not covered. Relevant part of the order read as under:

“District Town Planner, Gurugram vide letter dated 18.04.2016 has reported that as per published FDP of GMUE-2031-AD, the land in question falls in commercial belt of sector-62, Gurugram. The land of petitioner affects 24 mtrs wide road along the sector dividing road of sector-62 and 57 toward sector-62 and commercial belt of sector-62, Gurugram. The land of the petitioner was vacant at the time of survey conducted at the time of section-4. As per latest site report, construction in khasra no.1//18/2 exist.

xxxx xxxx xxxx

4. Hon’ble Court has directed to consider the claim of the petitioners in terms of order dated 19.10.2015 passed in CWP No.11911 of 2011 titled as Vishnu Apartments Pvt. Ltd. Vs. State. The case of Vishnu Apartments has been perused wherein prayer has been made for release of land by invoking the land release policy for grant of license. In view of orders dated 31.10.2011 of Hon’ble Supreme Court in SLP No.28411 of 2011 Kishore Chhabra vs State and others and further orders of the Govt., land has not been released. In view of the submission of the petitioners, the instant case is not covered under the above case. In view of reports of CA, HSVP, DTP and LAO, Gurugram, the request for release of land cannot be considered as the acquired land is the part of planning of HSVP. Moreover, as per report of Land Acquisition Collector, the objection u/s 5-A has not been filed. There was no construction at site at

the time of acquisition. The claim of the petitioner is not covered under the policy of the Govt. for release of land, hence cannot be considered for release of land.”

9. It is, in such circumstances, the matter has been gone into. We are of the considered opinion that it is the petitioners who have been repeatedly approaching this Court to keep the issue alive. The award in question had been passed way-back on 23.11.2011. Only on account of some other builder who had applied for a licence and having got some benefit, projection was given that the petitioners are also similarly placed. As noticed there is not even a licence issued in favour of the petitioners and the ancillary proceedings which have been initiated are only for elongating the lis at the cost of the planned development. We have also gone through the site-plan (Annexure R-3/1) which go on to show that the possession of the land by the petitioners is only affecting the planned development of the Cyber City of Gurugram and therefore, the mushrooming of the same cannot be permitted as would be clear from the photographs. In such circumstances, we restrain ourselves from imposing costs upon the petitioners.

10. Resultantly, in view of the above discussion, the present writ petition stands dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

21.10.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	