

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-13688-2005

Reserved on: 21.02.2024

Pronounced on: 29.02.2024

SARWAN SINGH AND ANOTHER

.....Petitioners

Versus

STATE OF PUNJAB AND ORS.

....Respondents

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

Argued by: Mr. Puneet Jindal, Senior Advocate with
Mr. Arshnoor Singh, Advocate
for the petitioner(s).

Mr. Avnish Mittal, Addl. Advocate General, Punjab
for the respondent-State.

Mr. Maninder Singh, Sr. DAG, Punjab.

Ms. Anu Chatrath, Senior Advocate with
Mr. Nikhil Singh, Advocate
for the respondent- GMADA.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner(s) herein pray for the quashing of the acquisition notification(s), as issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'), thus on the hereinafter extracted grounds.

(b) For declaration that Section 23(1) First of the Land Acquisition Act, 1894, is ultravires of Article 31-A Second proviso, because the said Act does not provide for the fixing of compensation "at no less than market price" as on the date of acquisition.

(c) For seeking declaration that the provisions of Punjab New Capital (Periphery) Control Act, 1952, be declared as ultravires the Second Proviso of the Article 31-A of the Constitution, as it imposes illegal and unreasonable restriction on the fundamental rights of the land owners, whose total holdings are within the permissible limits when they personally cultivate the same.

(d) For declaring the policy of the Government that acquisition shall be done by the Department, who is interested in acquiring the land, establishes a procedure which is not fair to the right holders and is void, being in contravention of the principle of natural Justice and Article 14 of the Constitution.

(e) That notification under Section 56 of the Punjab Regional and Town Planning and Development Act of 1993 is said to have been issued in the year 1996.

(f) That acquisition being ordered/notified in violation of the provisions of Punjab Regional and Town Planning and Development Act, 1995, which is mandatory.

(g) The notices under Section 9 of the 'Act of 1894' are not served according to law and are not issued for clear 15 days.

Inference of this Court.

2. On a perusal of para No. 4, of reply, on affidavit, furnished on behalf of respondent No. 2, it is revealed that in pursuance to the aforesaid notification(s), the land of the petitioners falling in Khasra no.72//18 and 72//19 of Village Sohana had been acquired vide Award no. 522 dated 15.11.2011 for the setting up of Residential Urban Estate (Sectors 88-89) at S.A.S Nagar, after other writ petitions pertaining to

dated 03.05.2011 (Annexure R-2/1) passed in CWP No. 942 of 2005 titled as Jaswant Singh and others and the connected matters.

3. A perusal of Annexure R-2/1 reveals, that all the issues as have been raised in the instant writ petition rather were dealt with and also became decided against the petitioners therein. Therefore, the counsel for the petitioner(s) restricts his prayer to the acquisition proceedings being bad in law.

4. However, since the challenge to the instant acquisition proceedings, is made thus on those very grounds as became earlier raised by other similarly situated land losers concerned, thus in the writ petition (supra), besides when thereons a dismissal order was made by this Court on 03.05.2011. Resultantly, with the present petitioner(s) being similarly situated with those land losers, who cultivated an earlier motion in respect of the petition lands, thus whereons a dismissal order was made. Consequently, therebys, the present petitioner(s) have no vestige of any right, title and interest over the acquired lands. Therefore, besides also when the lands in the writ petition (supra), rather are covered by the very same/similar notification in the present petition.

5. Resultantly, to avoid any conflicting decisions in the instant writ petition, vis-a-vis, the decision rendered earlier on writ petition (supra), thereby this Court refrains from taking a view contra to the one taken earlier in writ petition (supra).

6. Further, the respondents, firmly contend that the writ land(s), were acquired for furthering the requisite public purpose and that the petition lands are an integral component of the layout plans

7. Since predominance is to be assigned to the public purpose than to individual interests of the estate holders concerned. Therefore, in doing so, this Court refrains to allow the petitioner(s) claim for the acquired lands becoming released from acquisition.

Final Order of this Court.

8. In aftermath, finding no merit in the writ petition, the same is dismissed.
9. The impugned notification(s) and consequent thereto impugned award are affirmed and maintained.
10. No order as to costs.
11. Since the main case itself has been decided, thus, all the pending application(s), if any, are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

29.02.2024
kavneet singh

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