

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:091360-DB



(103)

CWP No.11987 of 2007(O&M)
Decided on :22.07.2024

M/s Mudit Finance Pvt. Ltd. now through M/s H.B. Infrastructure Pvt. Ltd.

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

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

Present: Mr. Rajiv Kataria, Advocate and
Ms. Sushmeet Kaur, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. AG, Haryana&
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep K. Manchanda, Advocate for the HSVP.

G.S. Sandhawalia, J.(Oral)

1. Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the acquisition process which was initiated on 29.11.2001 under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act') and the subsequent proceedings initiated under Section 6 dated 28.11.2002 of the said Act. The petitioner has also challenged an order dated 23.12.2006 (Annexure P-6) passed by the High Powered Committee.
2. It is pertinent to notice that case is being taken up after having been remanded by the Apex Court in **Civil Appeal No.2838 of 2022** on 08.04.2022, which was filed against the earlier order passed on 27.10.2016 in a bunch of cases, lead case of which was **CWP No.21837 of 2012 'Rajbir Singh and others Vs. State of Haryana and others'**, vide which the writ petitions of the original landowners were allowed. In pursuance of the order

of remand M/s H.B. Infrastructure Pvt. Ltd. got itself substituted from the original landowner by filing **CM-7018-CWP-2022**, which was allowed on 17.05.2022. The said application was filed on the strength that before the Apex Court an application for substitution had been filed on 17.12.2018(Annexure P-6), which had been allowed on 08.04.2022 (Annexure P-7) and M/s H.B. Infrastructure Pvt. Ltd. had been brought on record by filing an appropriate application. It is further pertinent to notice that in the application filed before the Apex Court(Annexure P-6) under Order XX1 Rule 8 of the Supreme Court Rules, 2013, it has been specifically mentioned that M/s Mudit Finance Pvt. Ltd. had sold the land to the applicant vide two separate sale deeds dated 21.11.2017 and they were executed after getting No Objection Certificate (NOC) dated 15.11.2017 (Annexure P-3).

3. A perusal of the said NOC would go on to show that the Land Acquisition Officer had granted the same to the original landowner M/s Mudit Finance Pvt. Ltd., subject to the pendency of the SLP before the Apex Court. The said permission granted reads as under:-

“Subject:-Application for giving the directions to halka patwari to redeem the acquired land of village Rasoi and Nathupur court on the basis of order dt. 27/10/2016 passed by the Sh. Surya kant & Sudip Ahluwalia, Justice Punjab and Haryana High court in CWP No. 11987/07 M/s Mudit Finance Pvt.Ltd v/s state of Haryana

In the reference of the subject cited above, it is intimated that the land of village Rasoi District Sonapat comprised of killa no. 39//1,2,9,10,11,36//25,38//5, 6/1 was notified u/s- 4 & u/s 6 on 29.11.2001 & 28.11.2002 respectively for the purpose of development of residential and commercial sector 58, Sonapat, and the award was announced on 24.11.2004, and the possession was handed over to Estate Officer, HUDA, Sonapat on the same day and similarly in the revenue estate namely Nathupur 20//3,4,5, 6/1, 7/1, 8/1 was also acquired vide the same award. The owner of the abovementioned land filed

petition (CWP Nc.11987/07) in the Hon'ble High Court, which was allowed by the Hon'ble High Court on 27.10.2016. The department-decided to file the SLP in the Hon'ble Supreme Court against that decision, process of filing of SLP has been initiated and all the required documents has been submitted for that. The office of tehsildar Rai, Sonapat is at the liberty to comply the order dated 27.10.2016 of the Hon'ble High Court, passed by Justice Sh. Surya kant& Sudip Ahluwalia, in the revenue record at your own level, and this office has no objection regarding redemption of Rapats of acquisition subject to the outcome of the decision by the Hon'ble Supreme Court in the above said SLP filed by the department.

Land Acquisition Officer,
Urban Estate Department,
Rohtak”

4. It is, thus, apparent that the limited right which is now with the M/s H.B. Infrastructure is only to the extent of earlier orders as such, since on an earlier occasion the earlier landowner had taken various objections and challenged the acquisition proceedings and never a window had been left open to be considered, keeping in view the earlier litigation which had been initiated by filing **CWP No.10845 of 2004**. At that point of time the Coordinate Bench had directed that the writ petitioners would file comprehensive representations in support of their cases and the High Powered Committee would consider the same, after giving them an opportunity of personal hearing, vide order dated 16.07.2005 (Annexure P-5).

5. In pursuance of the hearing granted to M/s Mudit Finance Pvt. Ltd., the speaking order was passed on 23.12.2006 (Annexure P-6), whereby it was noted that possession of the land had already been taken by the erstwhile HUDA (now HSVP) on 24.11.2004 in pursuance of the acquisition proceedings and a report had been made in the RoznamchaVakiati. The writ petition had been filed on 01.12.2004 subsequent to the date of announcement

of the award i.e. 24.11.2004 and after taking possession of the land by the HUDA. The interim order dated 31.05.2005 had been passed after the announcement of the award. In such circumstances, the High Powered Committee came to the conclusion that it was not open to the Government to withdraw the land from acquisition, in view of the law laid down by the Apex Court in **Murari Vs. Union of India 1997 (1) RCR Civil 308**. Resultantly, claim of M/s Mudit Finance Pvt. Ltd. that it has developed the land was also repelled on the ground that it did not have title and therefore, since the land already stood vested in the name of HUDA and they did not fulfill the eligibility condition as per Section 3 of the Haryana Development of Urban Areas and Regulations Act, 1975, were not eligible for grant of the license. Further prayer made for release of the land was also rejected. Resultantly, the present writ petition had been filed initially by M/s Mudit Finance Pvt. Ltd. The writ petition at that point of time was decided along with a bunch of writ petitions on 27.10.2016, lead case of which was **Rajbir Singh (supra)**.

6. A perusal of the said order would go on to show that the Coordinate Bench while dealing with the present case had recorded a finding that the compensation amount had neither been received nor it has been deposited in the Court as per Section 31(2) of the 1894 Act. The claim of the official respondents was that they have taken over the physical possession of the land and the Coordinate Bench had assumed it to be correct, but on account of non-deposit in the competent Court, the writ petition was allowed. It was further directed that it is open to the State to initiate acquisition proceedings afresh, if it so desired, since the development works had been executed except over the land in litigation and the consequence of lapsing of previous

acquisition was due to fault of the Government Officers and the owner of such land/property was held to be entitled for compensation.

7. The matter was then taken to the Apex Court by the State and as noticed also has been remanded on the ground that once possession was taken on 24.11.2004 and this Court had not dealt with it, it would now deal with the same on merits, keeping in view the law laid down in **Indore Development Authority Vs. Manoharlal & others, (2020) 8 SCC 129**. It is in such circumstances, the matter is now being taken up.

8. In the reply filed by the State to the **CM-6170-CWP-2014**, which had been filed on the ground that proceedings had lapsed under Section 24(2) of the 1894 Act, it was specifically mentioned that the entry had been made in Rapat Roznamcha vide No.142 dated 24.11.2004 of village Rasoi and vide Rapat No.141 dated 24.11.2004 of village Nathupur and vide Rapat No.185 dated 24.11.2004 of village Nangal Kalan and Rapat No.315 of the said date of village Kundli. It is in such circumstances, it is apparent that the Coordinate Bench earlier also recorded the firm finding that the possession had already been taken. The stand of the State in the present affidavit is also the same. In spite of the said categorical averments made way-back in the year 2016 and 07.11.2023, no replication has been filed to controvert this aspect. The Apex Court has also remanded the matter to the limited extent whether possession has been taken or not. Thus, the said plea being not rebutted, we do not see any valid reason to hold to the contrary. Therefore, the argument raised by Mr. Kataria that possession was never taken is without any basis.

9. Coming to the second issue whether the subsequent purchaser at this point of time would have any right as such to press the press writ petition, the law is also settled against the substituted petitioner. Reliance can be placed upon the judgment of the Apex Court in **U.P. Jal Nigam, Lucknow through**

its Chairman and another Vs. M/s Kalra Properties (P) Ltd. Lucknow and others, (1996) 3 SCC 124, Shiv Kumar and another Vs. Union of India and others, AIR 2019 (SC) 5374 and the judgment of the three Judges Bench in M/s Vinayak House Building Cooperative Society Ltd. Vs. State of Karnataka and others, (2021) 14 SCC 409. The argument raised by Mr. Kataria that once the proceedings had been quashed, the substituted petitioner would have a right to argue the matter afresh, cannot be accepted. The three Judges Bench in M/s Vinayak House Building Cooperative Society Ltd. (supra) wherein a similar issue had arisen, has specifically held that the subsequent purchaser of the land cannot seek de-notification of the land from acquisition as his sale deed is void. It has also been held that the lands are being de-notified before taking possession or dropped from acquisition before the issuance of declaration by the Government are at the instance of land mafias in connivance with influential persons, political or otherwise and held that the Government should refrain from de-notifying or dropping any land being acquired for the formation of a layout under Section 48 of the 1894 Act or under any other law. In Delhi Development Authority Vs. Godfrey Phillips (I) Limited and others, (2022) 8 SCC 771, the Apex Court has held that once the purchaser had purchased the property after vesting of the land with the State, he would have no right to claim lapsing of acquisition proceedings and had no right to claim a declaration regarding the lapsing of acquisition. The relevant part of the said judgment reads as under:-

“44. Even otherwise, the stand of the appellant is that the possession of the entire land was taken on 14.7.1987 whereas possession of land measuring 12 Bigha 18 Biswa was handed over to it, whereas the possession of the remaining land measuring 15 Bigha 10 Biswa is with the Government of Delhi. Therefore, the purchaser is not entitled to any declaration of lapsing of acquisition proceedings inter alia on the ground that

it has purchased the land after vesting of the land with the State and the possession has been taken of the land measuring 28 Bigha 8 Biswa and the compensation has also been deposited in respect of entire land, though the compensation in respect of land admeasuring 12 Bigha 18 Biswa was disbursed. The remaining amount of compensation was with the Land Acquisition Collector.

45. Still further, the purchaser had purchased the property after vesting of the land with the State. In fact, in Manav Dharam Trust, earlier three Judge Bench judgment in M. Venkatesh was not even referred to. The purchaser has no right to claim lapsing of acquisition proceedings in view of the recent larger Bench judgment of this Court reported as [Shiv Kumar & Anr. v. Union of India & Ors.](#) wherein the judgment rendered by two-Judge Bench in Manav Dharam Trust was not found to be a good law. Hence, the purchaser has no right to claim a declaration sought for.”

10. As noticed above, the subsequent purchasers bases its claim on the NOC, which has been reproduced above and was well aware that the matter was to be further agitated before the Apex Court and SLP was filed. Once the SLP was allowed on 08.04.2022, the natural consequence is that the lapsing of the acquisition proceedings which had been held by the Coordinate Bench of this Court, can no longer exist and ownership is back to square one with the State, since the land has been duly acquired and the award under challenge is in place and the land stands vested with the State. In such circumstances, the petitioner has only *locus standi* to claim the compensation, some of which is still lying deposited in the LAC account as mentioned in the written statement, which is Rs.1,97,400/- out of the total compensation of Rs.43,98,54,550/- for the larger chunk. It is pertinent to notice that the respondents have specifically averred that the land of the petitioner affects the site of 8 plots of 4 marlas and 19 plots of 8 marlas and 12 meter service road, park and 12 plots of 10 marlas, as per the development plan and is, thus,

essential for the public purpose for which the same was acquired. In the additional affidavit filed by the petitioner, he has stated that he was owner in possession of land measuring 43 kanals and 13 marlas and the same was being used for running a dairy farm and, thus, does not have any construction on it. The said land is required for planned development, qua which acquisition has been put in place.

11. The argument raised that land of one M/s Atlas Cycles had been released in the year 2020, is not liable to be considered on the ground of parity. As noticed the petitioner is also a subsequent purchaser during the pendency and the said objection has never been taken by the original landowner and the substituted petitioner cannot agitate for the same in the second round of litigation, as he has only stepped into the shoes of the petitioner. Even otherwise the release of the land belonging to M/s Atlas Cycles adjacent to the land of the petitioner has been notified, as the factory already existed before the issuance of the Section 4 notification and it was in such circumstances the benefit was given to the said company, whereas apparently in the case of the petitioner the land was being only used for dairy farming, as per its own affidavit.

12. Resultantly, there is no plausible reason to entertain the present writ petition and same is hereby dismissed. All pending civil miscellaneous applications also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

22.07.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes