

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-15282-2006 (O & M)
Reserved on: 21.02.2024
Pronounced on: 29.02.2024

KARNAIL KAUR (SINCE DECEASED) THROUGH LRs. AND ORS.
.....Petitioners

Versus

STATE OF PUNJAB AND ORS. Respondents

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

Argued by: Mr. Amit Jain, Senior Advocate with
 Mr. Chetan Salathia, Advocate
 for the petitioners.

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

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Ritesh Khatri, Advocate and
Mr. Nikhil Kumar, Advocate
for respondents No. 5 and 6.

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 Letter of Intent dated 08.10.2021 (Annexure P-
4), as issued by the Chief Administrator, PUDA, Respondent No. 2,
and, of the re-allotment letter dated 13.12.2001 (Annexure P-5), issued
by Respondent No. 3, in favour of Respondent No. 5-Radha Soami
Satsang Beas, Dera Baba Jaimal Singh, Amritsar (hereinafter for short

Factual Background.

2. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894') was issued on 21.02.2000 (Annexure P-1) for acquiring the land for the public purpose for setting up of residential Urban Estate at S.A.S. Nagar, Mohali, followed by a declaration under Section 6 of the 'Act of 1894' on 02.02.2001 (Annexure P-2) and subsequent thereto the award was passed.

3. The petitioners challenged the said notification(s) by filing CWP-5512-2001 and CWP-7050-2001. However, this Court through an order made on 19.04.2011, upon, CWP-7050-2001 and other connected matters rather dismissed the said writ petition(s).

4. The said order dated 19.04.2011, was further challenged by the land owners concerned, before the Hon'ble Supreme Court of India and vide order dated 22.01.2015, passed in I.A. No. 8 of 2014 in Civil Appeal No. 7424 of 2013 and in the connected matters and further vide order dated 30.07.2015 passed in review petition No. 1188 of 2015 filed by GMADA in the said civil appeal, the Hon'ble Apex Court quashed the land acquisition proceedings qua land measuring 102 acres of the petitioner(s) concerned, which was acquired in the year 2001 and the land in question was returned back to the land owners concerned.

5. Furthermore, for completing the development of Sectors 76-80, S.A.S. Nagar, the GMADA decided to purchase the land directly from the land owners by offering a special package of allotment of developed residential and commercial area in lieu of each acre of land.

6. Accordingly, vide public notice dated 19.04.2016,

the land owners concerned of land measuring about 102 acres, including the petitioners were offered special package and further called upon to submit their acceptance with GMADA.

7. The sons of Petitioner no. 1 (Karnail Kaur) namely Gurnam Singh S/o Sucha Singh and Others, thus executed registered sale deeds of their land measuring 71 Kanals falling in Village Sohana and forming part of Radha Soami Satsang Society Beas in favour of GMADA vide sale deeds dated 16.06.2016 (27K -19.84 M) and 26.08.2016 (43 K - 1.46 M).

8. Further acquisition of their remaining land measuring 3 Kanal-6 Marla, which is situated outside the site allotted to Radha Soami Satsang Society, was also initiated by the Government of Punjab, Department of Housing and Urban Development vide notifications dated 20.12.2016 and dated 19.12.2018 issued under Sections 11 & 15 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'), but the same stood lapsed, as the award could not be passed within the stipulated period. The said land is not the subject matter of the instant writ petition.

9. Petitioner no. 2 namely Gurdev Singh alongwith his sons and other family members did also evidently sell their entire land measuring 52 Kanal - 2.54 Marlas in favour of GMADA, through theirs executing registered sale deed dated 14.07.2016.

10. Petitioner no. 3 namely Jasmer Singh was offered land pooling for allotment of developed residential and commercial area in lieu of each acre of land under the Special Package offered to all such

Sectors 76-80 of S.A.S. Nagar. In response thereto, petitioner no. 3 namely Jasmer Singh did also evidently execute a registered sale deed of 1/2 share of 49 Kanal 12 Marlas of land (measuring 24 Kanal 16 Marlas) in favour of GMADA on 26.05.2006.

11. Since dispute with regard to his remaining land measuring 24 Kanal 16 Marlas was pending in this Hon'ble Court in RSA No. 291 of 1997, therefore GMADA did not purchase this land, through a registered sale deed. Ultimately, the Government of Punjab, Department of Housing and Urban Development, rather proceeded to initiate acquisition proceedings for acquiring his remaining land along with other chunks of lands falling in Villages Sohana and Mauli Baidwan in order to complete development of Sectors 76-80 of S.A.S. Nagar by issuing notification(s) dated 22.12.2016 and dated 20.12.2017 under sections 11 and 19 of the 'Act of 2013'.

12. After following the due process under law, the balance land measuring 24 Kanal 16 Marlas of Petitioner no. 3 (Jasmer Singh) falling in Village Sohana did also become acquired vide Award No. 571 dated 16.08.2018 along with other chunk of 22.0955 acres of land of Villages Sohana and Mauli Baidwan. Under this award, all the land owners have been offered cash compensation and land pooling as per the Land Pooling Policies dated 19.06.2013 & 10.04.2018 of the Government, qua their acquired land.

Submissions of the learned counsel for the petitioner(s).

13. The learned counsel for the petitioner(s) submits that in Section 4 and Section 6 notification(s), the land was acquired to set up residential urban estate. However, after acquiring the land which

respondents No. 5 and 6, thus respondent No. 2 re-allotted land in one big block/sector to respondents No. 5 and 6, instead of developing a residential estate as stated in Section 4 notification. Hence, there is a change of purpose of the acquisition for which the notification/award was issued.

14. After a prolonged litigation, the petitioner(s) were illegally forced out of possession for 15 years and possession was not restored to them. Therefore, the petitioner(s) had no other option but to accept the land pooling/special package as offered by the GMADA.

15. The letter of intent and re-allotment to respondents No. 5 and 6 was conditional and it was specifically stated to be subject to the outcome of CWP-7050 of 2001 and other such petitions, as well as to the vacation of any stay order. That since the SLP preferred by the petitioner(s) herein-land owners before the Hon'ble Supreme Court was allowed resulting in the quashing of the notification(s). Thus, the allotments cannot be allowed to stand as the re-allotment was conditional and subject to the outcome of CWP-7050-2001.

Common submissions of the learned State counsel and the learned counsel for respondents No. 5 and 6.

16. The allegation of the petitioners, that the purpose has been diversified, is absolutely wrong, inasmuch as, in terms of clause 9.1 of the Standing Order No. 28 of the Govt. of Punjab, no religious place of worship, shrine, tomb, grave-yard or any immovable property attached to any such institution, the boundaries of which are continuous with the site of the same, rather can become acquired compulsorily.

17. Since the land of religious body/place of worship could not be acquired, thereupon the said land was re-allotted to the 'Dera' by the

Government with specific conditions, inasmuch as, to keep the land under minimum construction and maximum being kept as green. As on today, the land constructed is less than 3 % of the 200 Acres. Therefore, it is contended that there is no breach of the conditions as carried in the conditional allotment made to the 'Dera'.

18. The said parcels of lands were acquired for planned development of Sectors 76-80 and after planning only 200 acres of land were re-allotted to the Society in Sector – 76, which is predominantly an institutional sector, so that these parts of land, thus used as Satsang Ghar, by the society rather do not come in the way of compact development of these sectors. The Society is using the land re-allotted to it only for religious congregations and construction only upto 5 % has been done at the site concerned.

19. If the re-allotment to respondents No. 5 and 6 is cancelled, the impact would be to return the scattered land measuring 234 acres, which is now part of developed sectors of Mohali District, which will not be feasible at all.

20. The possession of the land has already been taken while award was passed and the compensation amount taken by the villagers. The challenge to re-allotment and acquisition is highly belated and a manipulated motion raised at the instance of the petitioners.

Analysis of the submissions made by the counsel for the parties and inference of this Court.

21. It is apparent on the face of record, that the petitioner(s) herein challenged the acquisition proceedings before this Court through theirs filing CWP-5512-2001 and CWP-7050-2001.

22. That during the pendency of the afore writ petition(s), re-

allotment of 200 Acres of land to 'Dera' at one place was made by the Authority concerned. A reading of para no. 23 of the re-allotment letter (Annexure P-5), para whereof is extracted hereinafter reveals, that the allotment was subject to outcome of pending writ petition No. 7050 of 2001.

“ 23. This allotment shall be subject to the outcome of pending writ petition No. 7050 of 2001 and other such writ petitions as well as to the vacation of any stay order that may be applicable and relevant in this case. In the event of any of the writ petitions or other court cases being decided against PUDA, all liabilities, damages, compensation including interest etc. or cost of any other award that may be passed against PUDA by any court or Tribunal etc shall be borne by Satsang in toto. In other words, the acceptance of this allotment shall be entirely at the risk and cost of Satsang and PUDA categorically disclaims any responsibility in this regard.”

23. Though the said writ petition became dismissed by this Court through an order drawn on 19.04.2011. However, the petitioner(s) herein-land owners preferred an SLP thereagainst before the Hon'ble Apex Court. Through an order drawn on 22.01.2015, upon, I.A. No. 8 of 2014 in Civil Appeal No. 7424 of 2013, the Hon'ble Apex Court quashed the land acquisition proceedings qua land measuring 102 acres. The relevant part of the order passed by the Hon'ble Apex Court is extracted hereinafter.

“.....22. In view of the aforesaid findings and reasons recorded by us, the acquisition proceedings in respect of the appellants' land have lapsed....”

24. Therefore, since the Hon'ble Apex Court through its order (supra) declared the acquisition proceedings, to become lapsed, thereby

the present petitioner(s) became the absolute owners in possession of the acquired lands. In consequence, when the allotment of the subject lands to the 'Dera' was a conditional allotment, inasmuch as, it was hemmed with a condition, that the allotment is subject to the outcome of the pending writ petition.

25. In sequel when the petitioner(s) herein i.e. Karnail Kaur, Jasmer Singh and Gurdev Singh, thus succeeded in their espoused claim rather in SLP(s), as became preferred before the Hon'ble Apex Court. Resultantly, the conditional allotment, as made to respondents No. 5 and 6, through the impugned Annexures, did consequentially loose its vigor and vitality. Resultantly, it is required to be quashed and set aside.

26. Though subsequent to the conferment of right, title and interest in the petitioner(s) herein, thus through a favourable verdict being made by the Hon'ble Apex Court, on the apposite SLPs, thereby they executed deeds of conveyance vis-a-vis the subject lands in favour of the GMADA. However, yet the said deeds of conveyance, do not *ipso facto* validate the conditional allotment of the subject lands, as made through the conditional order (supra), which but looses its vibrancy, especially when the land owners succeeded in their claim before the Hon'ble Apex Court. Pre-eminently so when the said sale deeds confer right, title and interest in the GMADA but not in the 'Dera'.

27. Be that as it may, the only remedy available now with the respondent concerned, and to the GMADA, is to consider to make re-allotments of the subject lands to the 'Dera' arrayed as respondents No.5

GMADA may not seek restoration qua it, vis-a-vis, the possession of the subject lands rather from the 'Dera' arrayed as respondents No. 5 and 6.

28. It is further clarified that if post the execution of deeds of conveyance by the vendors concerned in favour of the GMADA, the latter has made any re-allotments to the respondent 'Dera', thereupon, there may not be any necessity of any proposal emanating from the 'Dera' to the GMADA, rather for making re-allotments to them of the subject lands.

29. Moreover, if the deeds of conveyance were conditional, thereby too the remedy available to the petitioner(s), was to lay a declaratory suit before the jurisdictionally competent Civil Court concerned, rather for therebys on breach of the apposite covenants, the apposite deeds of conveyance being as such declared to be void/voidable.

30. In-so-far as the plea raised by the petitioner(s), that any re-allotment as made to the respondent-Dera after title becoming vested in the GMADA, after invalid acquisition proceedings becoming launched vis-a-vis the lands concerned, thus causes breach or is in digression of the public purpose mentioned in the notification for acquisition, rather also does not find any favour with this Court.

31. The reason for making the said conclusion becomes sparked from the factum, that since the respondent-Dera, does also subserve a public purpose, inasmuch as, it caters to the spiritual and religious needs of a sizeable section of the population, thereby, also the said argument pales into insignificance.

purpose to the initially stated public purpose in the acquisition notification, rather does not have any tinge of the same becoming gripped with any colourable exercise of power. Contrarily when the dynamics of public purpose are ever changing and are not static, thereby also any digression from the initially stated public purpose in the acquisition notification to the public purpose (supra), thus also does not become stained with any palpable vice of any arbitrariness or nepotism. Predominantly, for the reason that the said change is also sub serving the public purpose, inasmuch as, it is catering to the spiritual and religious needs of a sizeable section of the population.

Final Order of this Court.

33. The writ petition is disposed with the above observation(s) and direction(s).
34. No order as to costs.
35. Since the main case itself has been decided, thus, all 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