

2024:PHHC:077429-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-10610-2009

Reserved on: 29.04.2024

Pronounced on: 27.05.2024

THE RECEIVER, SWAMI UMA BHARTI PUBLIC SENIOR
SECONDARY SCHOOL, JHAJJAR ROAD, REWARIPetitioner

Versus

STATE OF HARYANA AND ORS.

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Argued by: Mr. Kshitij Sharma, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana and
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep Kaur Manchanda, Advocate
for respondent – HSVP.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner seeks the quashing of notification(s), as became respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter for short called as 'the Act of 1894') respectively on 21.07.2006 and on 16.07.2007.

2. The petitioner in the instant case has been appointed as the receiver of the school, who is working under the name and style of Swami Uma Bharti Public Senior Secondary School, Jhajjar Road,

Rewari. The school owns a total 40 kanals of land, whereons, the

2024:PHHC:077429-DB



constructed building of the school is situated and also a play ground for user of the students is existing. After issuance of Section 4 notification, the petitioner filed objections under Section 5-A of the 'Act of 1894' for release of the subject lands measuring 24 kanals 0 marlas situated in the revenue estate of Rewari. The respondent released 20 kanals of land belonging to the petitioner school but 4 kanals of land situated in Khewat No. 2108/2404, Rect No. 62, Killa No. 20/2 (8-0) and Khewat No. 2110/2406, Rect. No. 62, Killa No. 20/2/2 (1-0) rather remaining unreleased from acquisition.

3. Further, it has been averred that if the subject lands are acquired, thereby grave prejudice will be caused to the petitioner.

Reply filed by the respondents and inferences of this Court.

4. Through the impugned acquisition notification(s), the subject lands became acquired for the development and utilization of land for residential, commercial Sector 6-7 part, at Rewari. The substance of the notification under Section 4 of the 'Act of 1894' was published in two daily newspapers i.e. 'The Indian Express (English)' dated 15.08.2006 and 'Hari Bhoomi (Hindi)' dated 27.07.2006. The substance of the said notification was also pasted on the notice board of Halqua Patwar Khana and Tehsil Office. Munadi was also done through village chowkidar by beating of empty kanastar in the village.

5. Pursuant to Section 4 notification, the petitioner and other land losers filed objections under Section 5-A of the 'Act of 1894'. The notices for hearing of objections were given to all the land owners/interested persons to file the objections under Section 5-A of

2024:PHHC:077429-DB



the 'Act of 1894'. In response to the said notices, none appeared before the Land Acquisition Collector on behalf of the petitioner. After considering the objections under Section 5-A of the 'Act of 1894', the Land Acquisition Collector sent his report to the Government for taking further decision. Joint Site Inspection Committee also sent its report to the Government. After going through the entire record and the reports of the Land Acquisition Collector and of the Joint Site Inspection Committee, the Govt. decided to issue declaration under Section 6 of the 'Act of 1894'.

6. It is candidly stated in the reply on affidavit that the land in dispute bearing khasra No. 62//20/2(4-0) has already been acquired for public purpose in public interest as per the demarcation given by the District Town Planner, Rewari. Moreover, it is also stated in the reply on affidavit that the possession of the acquired land in dispute was handed over to the representative of Estate Officer, HUDA, Rewari, on the very same day when the award became pronounced on 17.07.2009.

7. In addition, it also becomes spoken in the reply on affidavit that the subject lands bearing Khasra No. 62//20/2 (4-0) were vacant at the time of issuance of notification under Section 4 of the 'Act of 1894', thus the same were acquired for furthering the requisite public purpose.

8. Further, a perusal of signed synopsis placed on record by the learned State counsel reveals, that the possession over the acquired lands became assumed through rapat roznamcha No. 883 dated 17.07.2009 and the mutation of the subject lands has been entered in favour of the beneficiary department-HSVP.

2024:PHHC:077429-DB



9. Moreover, when it is further indicated in the signed synopsis, furnished by the learned State counsel, that despite the total amount of compensation, thus assessed under award dated 17.07.2009, rather becoming tendered, yet the petitioner not seeking disbursement(s) thereof, and the same is lying deposited, for thereby it becoming available for becoming released to the land losers concerned.

10. Consequently, an apt inference which spurs from the above, is that, the present petitioner is not entitled to make any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the 'Act of 2013', as the acquiring authority in terms of the verdict recorded by the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129*** has adduced sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for thereby its becoming available for being released to the land losers concerned. Moreover, when the said events evidently happened before the coming into force of the 'Act of 2013', thereby too, the claim raised by the petitioners that they are entitled to a lapsing declaration in terms of the provision (supra), thus deserves rejection.

11. Conspicuously also since it has been stated, in the reply on affidavit, already on record, as well as in the signed synopsis placed on record, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes

2024:PHHC:077429-DB



but yet only due to ongoing litigation pending since 2009, the department concerned could not plan the land. Resultantly since after issuance of notification under Section 4 of the 'Act of 1894', there is a complete divestment of right, title and interest in the land losers concerned, whereas, there is a concomitant investment of right, title and interest in the acquiring authority concerned, thereby the retention of the possession of the subject lands by the petitioner but is as trespassers thereovers. Resultantly, encumbrance free delivery of physical possession thereof is required to be forthwith made to the acquiring authority. Therefore, if the release of the subject lands is yet ordered to be made, thereupon, the public purpose (supra), which would become sub served rather would become completely jeopardized.

12. In a verdict rendered by the Hon'ble Apex Court in case **Civil Appeal No.7634 of 2023** titled as '**Nandkishor Babulal Agrawal Vs. The State of Maharashtra and Ors**', it has been expostulated by the Hon'ble Apex Court, thus in the relevant paragraph thereof, para whereof is extracted hereinafter, that there cannot be a time limit within which the authorities are expected to utilize the acquired lands.

*“ 11. In our considered view, the High Court would be extremely circumspect to issue a mandamus in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution, directing to release a lawfully acquired land only on the premise that such land has not been utilized for the public purpose for which it was acquired. **There is no gainsaying that once the land vests in the State or its authorities, the `public purpose` of its acquisition can be***

2024:PHHC:077429-DB



changed at a later stage. All that is required is that such land should be utilized for public purposes only. In fact, there cannot be a time limit within which the authorities are expected to utilize the acquired land. The Municipalities or such other agencies are expected to have long-term plans for regulated development of urban areas and for that purpose, certain pockets of land are required to be kept vacant as reserve pool to cater the future needs.

13. Therebys, even if the acquired lands remained un-utilized for a prolonged duration of time, or yet remain un-utilized, therebys also when it has also been declared in a verdict made by this Court in case ***CWP No. 12432 of 2023*** titled as '***Anil Suri and another versus State of Haryana and others***', that the dynamics of the public purpose are ever changing and there can be yet a change from the public purpose, as enshrined in the notification for acquisition, rather to some other public purpose. Resultantly as such the factum of the land being yet un-utilized for the stated public purpose rather cannot give any leverage to the counsel for the petitioner to contend that they are unviable or un-essential for furthering the requisite public purpose nor he can argue that thereby they be released from acquisition. Consequently, when public purpose than the ill individualistic interest is rather to be furthered. Resultantly, this Court finds no merit in the instant petition, and, is constrained to dismiss it.

14. Be that as it may, since as a sequel of the writ petition being dismissed would result in the educational pursuits of the students undertaking education in the Educational Institution concerned, rather

being also forestalled, especially when over a part of the subject lands

2024:PHHC:077429-DB



there exists school building besides over a part of unreleased lands, a playground is existing thus for being used for enabling the students to undertake sporting activities thereovers. Since both the above (supra) are essential for building both the minds and body of the students undertaking education in the educational institution concerned. Therefore, for ensuring that no disturbance ensues either to the educational institution or to the sporting activities to be undertaken on the school grounds, which exist over the subject lands. Resultantly, if deemed fit and appropriate, the respondent concerned may consider to release, even the said unreleased portions of the acquired lands, but irrespective of this Court maintaining the impugned acquisition proceedings.

Final Order of this Court.

15. In aftermath, with the above observation(s), the writ petition is disposed of, but without at this stage, the impugned notification(s), and consequent thereto award being quashed and set aside. The decision to release the subject lands from acquisition be taken by the respondent authority within a period of one month from today but bearing in mind the above observation(s).

16. Disposed of alongwith all pending application(s), if any.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

27.05.2024
kavneet singh