



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.14219 of 2022 (O&M)
Date of Decision: 13.11.2024

Sandeep & others
...Petitioners
Versus
State of Haryana & others
...Respondents

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

Present:- Mr. Sandeep Sharma, Advocate,
for the petitioners.

Mr. Ankur Mittal, Additional AG, Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur Manchanda, Advocate,
for the respondent-HSVP.

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G.S. SANDHAWALIA J. (Oral)

The prayer in the present writ petition, filed by the six petitioners under Articles 226/227 of the Constitution of India, is for seeking release of the acquired land on the strength of the Policy dated 14.09.2018 (Annexure P-10) issued under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013').

2. The petitioners are owners of the land bearing khasra No.33//20 (5-8), 33//21 (3-0) as share-holders in village Kanhai District Gurugram (for short 'the land in question'). The land in question was



sought to be acquired by the State vide notification dated 20.04.1990 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act of 1894') and subsequent notification dated 18.04.1991 (Annexure P-3) under Section 6 of the Act of 1894. Apparently, the Award was also passed on 23.03.1993 (Annexure P-4) whereby the land of the petitioners was sought to be acquired for the public purposes, i.e residential, commercial and institutional area and recreational zone and open space in Sectors 44, 45 and 46 at Gurgaon and the land stood vested in the State under Section 16 of the Act of 1894. The claim of the petitioners is that they did not receive any compensation and they are in physical possession of the land in question. The petitioners had constructed the residential houses and shops in the land in question prior to the issuance of the notification under Section 4 (Annexure P-2) of the Act of 1894 and they are residing in the said residential houses. On merits, efforts have been made to build up the case on the ground of discrimination without having challenged the acquisition on merits initiated way back in 1993 and the vesting of the land in the State under Section 16 of the Act of 1894.

3. It has been mentioned in the written statement filed on behalf of respondents No.1 and 2 that the petitioners did not file objections under Section 5-A of the Act of 1894 and the land, at the time of notification under Section 4 of the Act of 1894, was found to be vacant, therefore, the same was recommended for acquisition. It has further been averred that the compensation of the entire acquired land was Rs.12,27,47,937.60/- had been tendered at the time of announcement of the Award. A sum of Rs.11,20,50,371.55/- had already been collected by the majority of the landowners and only compensation Rs.1,06,97,566/- has not been taken by



the landowners including the petitioners and the compensation amount of Rs.1,95,022/- has already been sent to the ADJ Court under Section 31(1) of the Act of 1894. The physical possession of the land had been taken vide Rapat Roznamcha No.425 dated 23.03.1993 and the same was handed over to Haryana Shehri Vikas Pradhikaran (HSVP). Therefore, the acquisition proceedings stands completed for all intents and purposes and the land stands vested in the beneficiary department, i.e HSVP.

4. The essentiality and viability aspect has been repelled by making common averments by the State in its reply and the same reads as under:-

“15. That it is respectfully submitted that in the case in hand, the land surrounding the land in question is acquired land and is in the possession of the answering respondent. The land involved in the petition affects the planning of Institution State. This clearly shows that the land in question has been duly planned and is very much essential for achieving the public purpose for which the land was acquired. True copy of the layout plan is annexed herewith as Annexure R-1 for the kind perusal of this Hon’ble Court.”

5. We have also examined the layout plan (Annexure R-1) in question which would go on to show that the location of the land is very much suitable for the institutional site. It is also pertinent to notice that on earlier occasion, the petitioners had filed CWP No.24003 of 2016 titled as **Udey Singh and Others vs. State of Haryana & Others** in which petitioners Bishamber and Uday Singh (petitioners No.2 and 6 in the present petition) were party including successor-in-interest petitioners No.1, 3 and 4 of Charan Singh and only petitioner No.5-Sunil Yadav (in



this petition) is the solitary reaper in this case. The order dated 13.12.2022 passed in the earlier round of litigation is as under:-

*“It is informed that the validity of the acquisition proceedings, questioned in the present petition, has been upheld by this Court vide its judgment dated 31.08.2022 & 27.11.2020 in CWP-14184-2016 (**Sanjay and others v. State of Haryana and others**) & CWP-20284-2020 (**Virender Singh and another v. State of Haryana and others**), respectively. Further, the Special Leave Petition (C) No.21440 & 8342 of 2022, filed against the said judgments, have since been dismissed by the Supreme Court, vide orders dated 02.12.2022 & 07.11.2022, respectively.*

Learned counsel appearing for the parties are ad idem that the issue involved in the present case is squarely covered by the decisions referred to above.

Accordingly, learned counsel for the petitioner(s) submits that in such circumstances, he may be permitted to withdraw the petition.

Ordered accordingly.

Pending application(s), if any, also stands disposed of.”

6. Learned counsel for the State submits that in **‘Raghubir Singh and another vs. State of Haryana and others’, (2022) 4 SCC 728** it was held by the Apex Court that the issue of non-viability or non-essentiality of the land is to be decided by the Government as such and that in case, it chooses to de-notify certain land, it is for the State to decide as such. In such circumstances, the claim, at this belated stage, is not liable to be entertained. Even the representation dated 01.06.2020 (Annexure P-11) was moved by the petitioners for release of their land as per the Policy



dated 14.09.2018 (Annexure P-10), much after the judgment dated 06.03.2020 in **Indore Development Authority vs. Manoharlal and others, (2020) 8 SCC 129**. The said aspect, thereafter, was re-considered by the Apex Court in **Civil Appeal No.16421 of 2021 'Ram Swaroop (dead) through LRs & another Vs. State of Haryana and others'** and the Apex Court, thus, clarified that Section 101-A of the Act of 2017 does not give a vested right to the landowner to seek denotification. It is not for this Court to sit over the opinion of the competent authority, who have to ensure effective town planning and whether the land is required, which stood vested in the State once the Award was passed on 23.03.1993. Claim as such is only on the ground that possession continues, which cannot be sustained, since the petitioner apparently has continued to be in unauthorized occupation, thereafter. The relevant observations read as under:-

“8. Section 101-A of 2013 Act (as inserted in State of Haryana) gives liberty to the State Government to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the landowner due to such acquisition. Section 101-A is an enabling provision with the State Government to denotify the land vested with the State if it finds that any public purpose for which land was acquired under the Land Acquisition Act, 1894 becomes unviable or nonessential. In other words, the power is with the State Government on its satisfaction that the land acquired has become unviable or non-essential. No landowner has a vested right to assert that the land acquired has become unviable or non-essential mainly because the landowner continued to be in possession by virtue of an interim order passed by the High Court.



xxxx xxxx xxxx xxxx xxxx

11. The claim of the appellants for release of land on account of Section 24(2) had been rejected by the State Government on 12.09.2016. The writ petition against the said order stands dismissed on 12.10.2020. Thus, the present appeal is merely an attempt to continue to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development and utilization of residential, commercial and institutional area, Sector-51, Gurgaon (now Gurugram). This Court in **Raghubir Singh** has held that Section 101-A does not give a vested right to the landowner to seek denotification or even that upon denotification, the land in question must return to the erstwhile owners only. The State Government is at liberty to pass such order other than release of land in favour of the landowners. 12. Therefore, the appellants cannot compel an exercise of power by the State Government in their favour as the appellants have no vested right to seek denotification of the land. Consequently, the present appeal is dismissed.”

7. In **Civil Appeal No.7634 of 2023 ‘Nandkishor Babulal Agrawal Vs. The State of Maharashtra & others’** decided on 10.11.2023, challenge had been raised on the ground that the proceedings had lapsed and resultantly, it was held that once the land stood vested with the State authorities, the public purpose of the acquisition can be changed at a later stage and there is no time limit within which the authorities are expected to utilize the acquired land. Relevant portion of the said judgment reads as under:-

“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 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."

8. Rather, observations in the earlier decision of the Apex Court would be directly applicable in ***Leela Wanti and others vs. State of Haryana and others, (2012) 1 SCC 66*** wherein also, Para No. 493 of the Land Administration Manual and Standing Order No.28 was referred to. It was also noticed that apart from the gap of three decades between the issuance of the notifications in the year 1976 and the filing of the writ petition in 2007 would also invoke doctrine of laches for negating the challenge to the acquisition of land. Accordingly, it was held that the State cannot be debarred from using the acquired land for any other public purpose and such an interpretation would be contrary to the language of Section 16 of the Act. Relevant portion of ***Leela Wanti case (supra)*** reads thus:

"16. A reading of the above reproduced Paragraph of the Land Administration Manual nowhere suggests that the



State Government is duty-bound to restore the acquired land to the owners after the purpose of acquisition is accomplished. It merely mentions that as a matter of grace the Government is usually willing to restore agricultural and pastoral land to the owners on their refunding the amount of compensation. If Paragraph 493 is read in the manner suggested by the learned counsel for the appellants then in all the cases the acquired land will have to be returned to the owners irrespective of the time gap between the date of acquisition and the date on which the purpose of acquisition specified in Section 4 is achieved and the Government will not be free to use the acquired land for any other public purpose. Such an interpretation would also be contrary to the language of Section 16 of the Act, in terms of which the acquired land vests in the State Government free from all encumbrances and the law laid down by this Court that lands acquired for a particular public purpose can be utilised for any other public purpose.”

9. Interestingly, the instant petition was filed on 05.07.2022 during the pendency of the earlier petition and is not maintainable in view of the observations of the Apex Court in **Indore Development Authority vs. Manoharlal and others, (2020) 8 SCC 129** pertaining to the description of a relentless litigant.

10. Resultantly, keeping in view the above, the State has already given its inclination regarding the viability of the land in question for being developed as institutional site and the land stands surrounded by acquired land. We then do not find any plausible reason to issue the afore-said direction for the relief which is, now, claimed. The claim as noticed in the present case would be covered by **Ram Swaroop's** case (supra) that it is only an attempt to hold on to the land. Any sympathy to be shown on



account of the construction raised necessarily has to be repelled as it is a chance taken by the landowners to hold on inspite of the fact that they never had challenged the acquisition proceedings but have raised construction thereafter being share-holders of a larger chunk of land and the other co-sharers having not raised any such grievance. In such circumstances, we have no other option but to dismiss the present writ petition. We refrain ourselves from imposing exemplary costs which this Court would have resorted to in the normal circumstances.

11. We order accordingly. However, the petitioners are granted time till 31.03.2025 to vacate the land in dispute. After the said date, State will be free to take over the possession of the acquired property as the status of the petitioners is now only of encroachers.

12. All the pending application(s) stand disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

November 13, 2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>