



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14853-2022 (O&M)
Reserved on: 23.04.2024
Date of Decision : May 21, 2024

SURENDER AND OTHERS

...Petitioners

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

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

Present : Mr. Sumeet Mahajan, Senior Advocate with
Ms. Rabani Atri, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana for respondent No.1.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, and,
Mr. Shivam Garg, Advocate for respondent No.2-HSVP.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner prays for the making of a writ in the nature of *Mandamus* against respondents concerned, against his becoming dispossessed from the lands, situated in village Tigra, District Gurugram, thus till a decision is made on the application dated 05.10.2021 (Annexure P-6).

2. The brief facts of the case are that the petitioners are owners and in possession of lands comprised in Khewat No.20//9 (8-02), 10/1 (4-0), 11/1 (4-5), 12 (6-13), 13/1 (1-0), measuring 23 Kanal 18 Marlas, situated in



3. On 03.03.2003, a notification under Section 4 of the Act, was issued for the public purpose namely Development and Utilization of land for residential and commercial Sectors 49-50, Gurugram, in the area of villages Badshahpur, Ghasola, Adampur, Tigra and Tikri, Tehsil and District Gurugram. Subsequently, notification dated 02.03.2004, was issued under Section 6 of the Act. Subsequent to the issuance of notifications (supra), an award under Section 11 of the Act, became passed on 29.12.2005, thereby acquiring lands measuring 22.32 acres became acquired.

4. The petitioners earlier approached this Court through theirs instituting CWP-8557-2014, thus seeking reliefs therein for the quashing of the notifications (supra). The said writ petition became disposed of vide order dated 04.08.2015, whereby the appropriate authority became directed to decide the apposite representation. Subsequent thereto, another writ petition bearing CWP-7913-2017, became filed by the present petitioners claiming thereins, the relief for the making of a lapsing declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the "Act of 2013"). The said writ petition became dismissed by this Court, vide order dated 12.07.2021. The said dismissal order dated 12.07.2021 became assailed by the petitioners before the Hon'ble Apex Court, through theirs instituting SLP(C) diary No.16830/2021. The Hon'ble Apex Court vide order dated 19.08.2021, thus dismissed the SLP (supra), whereupons the order dated 12.07.2021, as became passed by this Court became upheld. However, the petitioners were granted liberty to submit



representation before the State Government in light of Section 101-A of the Act of 2013, order whereof becomes extracted hereinafter.

“The application for substitution is allowed, subject to all just exceptions.

Permission to file Special Leave Petition is granted.

We decline to interfere in this special leave petition, as we find no tangible reason to deviate from the conclusion reached by the High Court in the facts of the present case. The High Court has rightly rejected the relief of declaration regarding lapsing of acquisition.

However, as prayed, it will be open to the petitioners to make representation to the State Government in light of Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017 inserted with effect from 24.5.2018. That application shall be processed by the competent authority, keeping in mind the decision of this Court dated 15.7.2021 in Civil Appeal Nos. 2714-2715/2021, on the same terms. The Special Leave Petition is disposed of accordingly. Pending applications, if any, stand disposed of.”

5. Pursuant thereto, the petitioners moved representation dated 05.10.2021 (Annexure P-6) before the State Government. The said representation remained *subjudice* for a long time. Therefore, the petitioners were fearing that they may be dispossessed from the subject lands, as such, they are led to institute the instant writ petition, praying for the relief, as mentioned in paragraph No.1 (supra).

6. Respondent No.2 has instituted on 18.09.2022, a reply on affidavit to the present petition, wherein it is stated that the possession over the subject lands became assumed through Rapat Roznamcha No.216 dated

29.12.2005. Further, it is also stated therein, that compensation amount has



been duly tendered and the amount was made available to be disbursed to the land-losers concerned, but the petitioners chose not to receive the same.

7. It is pertinent to mention here that this Court vide order dated 12.12.2022 had directed the Zonal Administrator, Gurgaon to file an affidavit, thus for begetting compliance vis-a-vis the order dated 19.08.2021, as became passed by Hon'ble Apex Court, whereby the apposite representation was directed to be decided in terms of the decision dated 15.07.2021, as became passed in Civil Appeal Nos.2714-15/2021.

8. In compliance of the directions the respondent No.2 instituted on 29.08.2023, a short reply on affidavit, wherein, it became contended that the said Zonal Committee was constituted, which vide memo No.2529 dated 17.04.2023 (Annexure R-6) submitted its recommendations to the Director General, Urban Estate, Haryana, Panchkula. The said recommendation was approved by the competent authority vide letter memo No.A-1-2023/3367 dated 11.07.2023 (Annexure R-7). Accordingly, a speaking order has been passed on 12.07.2023 (Annexure R-8) vide memo No.12073, thus rejecting the representation dated 05.10.2021 (Annexure P-6), relevant paragraph whereof becomes extracted hereinafter.

“On behalf of LAC/HSVP it has been brought to our notice that the acquisition at hand was initiated vide notification, declaration issued under Section 4 & 6 dated 03.03.2003 and 02.03.2004 respectively; followed by the award No.22 dated 29.12.2005 for the public purpose namely, for development and utilization of land as residential, commercial area in Sector 49-50, Gurugram. Pursuant to issuance of notification, the petitioners failed to file the objection under Section 5-A of the Land Acquisition Act. The total award



amount of the entire awarded land i.e. Rs. 5,48,70,876/- of 22.32 acres of land of Village Tigra, out of which total award amount paid Rs.73,73,866/- disbursed to the land owners. The total balance amount of Rs.4,74,97,410/- sent to the ADJ Court through D.D No.210034 dated 05.03.22 amounting to Rs.5,18,35,96,798/- with other award amount vide Memo No.1162 dated 10.03.22 including petitioners amount of Rs.73,42,743/-. The physical possession of the land in question was taken and handed over to the beneficiary department i.e. HSVP vide Rapat No. 216 dated 29.12.2005. Even the mutation entries stand sanctioned in favour of HSVP. Thus, it was contended that the acquisition of the land in question is complete; the land in question stands vested in the State.

As regards the essentiality and viability of the land in question, the same affects No.11 plots of 1 kanal, 08 No. plots of 14 marla, 05 No. plots of 08 Marla, 07 No. of plots of 06 Marla, 01 No. 10 mtr wide road, 01 No. of 10.35 mtr wide road, 02 No. of 12 mtr wide road of sector 49-50, Gurugram.

That the aforestated submissions and the facts pleaded, the prayer has been made to reject the representation filed by the petitioners as public purpose qua the land in question is very much essential and the petitioners have concealed material facts in the representation.”

9. A reading of the underlined portion of the speaking order reveals that the competent authority has made an objective and informed decision with respect to the essentiality and viability of the lands, thus for the same furthering the requisite public purpose. Since the makings of the said well informed and objective contemplation, is solitarily, within the domain of the competent authority, besides when it is made on the basis of the layout plan which includes therein, the subject lands, thereby this Court

layout plan, as becomes drawn by the Engineering Cell of the Acquiring Department.

10. Resultantly, when the prayer made in the instant petition for deciding the representation dated 05.10.2021 (Annexure P-6), thus becomes complied by the respondent concerned, through the passing of a detailed speaking order (supra) thereons. Therefore, the instant writ petition does not survive, and, is dismissed thus having become rendered infructuous.

(SURESHWAR THAKUR)
JUDGE

21.05.2024

(LALIT BATRA)
JUDGE

Ithlesh

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