

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20329-2011 (O&M)
Reserved on: 15.04.2024
Date of Decision : May 06, 2024

SUKHBIR SINGH

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

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

Present : Mr. Raghav Gulati, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. P.P. Chahar, Sr. DAG, Haryana.

Mr. Vikas Chatrath, Advocate
for the respondents No.7(i) to (iii).

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner prays for the quashing of the notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), (Annexure P-2), and, also prays for the quashing of notification dated 30.12.2002 (Annexure P-4), notification whereof became issued under Section 6 of the Act of 1894. Moreover, the petitioner also seeks the quashing of award dated 29.12.2004 (Annexure P-5), as became passed under Section 11 of the Act of 1894.

2. The brief facts of the case are that as per jamabandi for the year 2000-01, the petitioner is the owner in cultivating possession of the land

falling in Khasra/Killa No.70//17/2, 17/3, 17/4, 24/1/1/1, 24/1/12, 24/2/1/1 and Killa No.41//7/2, 8, 13 and 18, situated within the revenue estate of village Para, Tehsil and District Rohtak,. He has constructed a house in the said colony and the same has electricity and sewerage connections. The roads of the colony were initially constructed and developed by the Haryana Urban Development Authority, and, thereafter by the Municipal Committee, Rohtak.

3. That the State Government vide notification issued on 1.1.2002 under Section 4 of the Act of 1894, thus acquired the lands for public purposes, namely for development and utilization of the land for commercial, Sector-6, Rohtak under the Haryana Urban Development Authority. The land of the petitioner also falls under this notification.

4. That in the month of June 2002, the Government of Haryana has taken a decision to regularize unauthorized colonies, wherein, 50% of the houses had already been constructed. Accordingly, vide letter dated 20.09.2002, issued by the office of Director, Urban Development Department to Executive Officer/Secretary, Municipal Committee, Rohtak, Jasbir Colony along with other 41 colonies were regularized.

5. That after the publication of notification issued under Section 4 of the Act of 1894, the petitioner filed objections under Section 5-A of the Act of 1894, which were received in the office of the respondents. In pursuance to the objections became submitted by the petitioner, he was afforded an opportunity of personal hearing. However, till date the decision taken on the objections has not been communicated to the petitioner, which *prima facie* shows that no decision has been yet made thereons.

6. In pursuance to the notification issued under Section 4 of the Act of 1894, a declaration was issued under Section 6 of the Act of 1894, on dated 30.12.2002, wherein, the lands of the petitioner was found mentioned despite the fact that the area belonging to the petitioner was a constructed area. Subsequently, an award dated 29.12.2004 was passed under Section 11 of the Act of 1894.

7. That the petitioner through his filing writ petition bearing No.CWP-19846-2004, had rather earlier approached this Court for the same relief. Other aggrieved persons had also approached this Court against the same acquisition proceedings. In the earlier writ petition (supra), the ground of challenge was discrimination on the basis of the fact that the State Government had ordered for re-survey of the area, and, subsequently certain lands had been released rather on adoption of a pick and choose policy. It was further mentioned that as per re-survey report, there was a small construction over an area of 4x4 in the shape of Smadh on the entire one acre of land in Khasra No.71/24, recorded in the name of Vikalp School, and, the said land was released from acquisition. The writ petition (supra), came up for hearing before this Court, and, the same was dismissed vide order dated 6.10.2010 on the basis of a decision rendered in CWP-111-2005.

8. That the petitioner challenged the order dated 6.10.2010, passed by this Court, through his filing SLP(C) No.8113 of 2011 before the Hon'ble Apex Court, but the same was also dismissed vide order dated 4.4.2011.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

9. That the petitioner is also aggrieved against the action of the respondents in adopting a pick and choose policy in releasing lands. Learned

counsel for the petitioner submits, that not only vacant lands or agricultural lands have been released from acquisition proceedings, but also lands belonging to those persons, who are similarly situated with the petitioner, and, whose writ petitions became dismissed by this Court, as well as by the Hon'ble Apex Court, thus have been ordered to be released.

REASONS FOR THE REJECTING THE SUBMISSIONS

10. However, for the reasons to be assigned hereinafter, this Court does not find any merit in the instant writ petition, thus is constrained to dismiss the same.

11. Initially, for the reason that the earlier writ petition bearing No.CWP-19846-2004, wherein, also a ground of discrimination became raised rather becoming dismissed. Moreover, when the SLP bearing No.SLP(C) No.8113 of 2011, as became directed against the said decision made on CWP-19846-2004 also became dismissed.

12. Consequently, the institution of the instant writ petition before this Court, thus with similar reliefs, and, causes of action also similar to the ones as carried in writ petition (supra), besides when the parties in the earlier writ petition and in the instant one are also similar, thereby the earlier makings of a binding and conclusive verdict, thus on the earlier writ petition rather makes the instant writ petition to be estopped by the norm of constructive *res judicata*.

13. Secondly, for the reason that the subject lands are an integral component of the layout plan, and, thereby this Court does not deem it fit, and, appropriate to tinker with the said prepared layout plans by the

Engineering Cell of the Acquiring Authority. Paramountly when therebys public interest becomes promoted rather than ill individualistic interest.

14. In aftermath, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Hence, the instant petition is dismissed.

15. The miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

06.05.2024

Ithlesh

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

(LALIT BATRA)
JUDGE