

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:091975-DB



(216)

1. CWP-13620-2014 Date of Decision: 22.07.2024

Ramesh Kumar & others --Petitioners

Versus

State of Haryana & others --Respondents

2. CWP-3252-2015

Gulab Singh --Petitioner

Versus

State of Haryana & others --Respondents

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

Present:- Mr. N.C. Kinra, Advocate for the petitioners
(in CWP-13620-2014).

None for the petitioner in CWP-3252-2015.

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

G.S. SANDHAWALIA.J (Oral)

1. This order shall dispose of above mentioned two writ petitions, wherein challenge has been made to the acquisition proceedings including notification under Section 4 of Land Acquisition Act, 1894 (for short the Act) dated 17.05.1990 (Annexure P-7), notification under Section 6 of the Act dated 16.05.1991 (Annexure P-8) and the survey report (Annexure P-10) qua the properties of the petitioners. The prayer is also for quashing of order dated 09.06.2014 (Annexure P-11) and for release of the properties of the petitioners on the ground that the same has lapsed. Facts have been taken from CWP-13620-2014.

2. It is apparent that the case is primarily filed on the strength of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short the 2013 Act). The writ petition was earlier decided on 30.11.2017, wherein the Coordinate Bench had come to the conclusion that the lapsing had taken place under Section 24 of the 2013 Act. The State filed Civil Appeal No.4528 of 2024 (State of Haryana Vs. Ravinder Kumar Zutshi) and the matter has been remitted to this Court keeping in view the judgement dated 06.03.2020 of the Hon'ble Constitution Bench in case of **Indore Development Authority Vs. Manoharlal and others, AIR 2020 SC 1496**. While confining the order of remand, as such, the stand of the State was clarified that the petitioners no.2, 4, 5 and 8 had filed objection under Section 5A of the Act and rest of the petitioners did not file any objection and the land of the petitioners was vacant at the time of issuance of notification under Section 4 of the Act, which had rendered in the award dated 12.05.1993 for the development of Sector 12, Sonapat. It is, thus, apparent that the land vested with the State under Section 16 of the Act. The Rapat Roznamcha No.392 dated 12.05.1993 has also been referred to.

3. Thus, the issue of possession having been established and the deposit of compensation before the Court, out of which total amount of Rs.10,24,17,534/- had already been disbursed among the land owners and the rest of the compensation of Rs.46,44,036/- is lying deposited in the account of LAC. Thus, the aspect of remand, as such, has been duly met with the view of the stand of the State. As such, we do not find, any plausible reason to further go into the other issues. However, counsel has also submitted that on an earlier occasion the petitioners had approached

this Court by way of filing CWP-3711-1993 which was disposed of with CWP-4498-1993 titled as Jugti Vs. State of Haryana and others, wherein the Division Bench, at that time had issued the following directions:-

“(16) For the reasons afore-stated, we allow these writ petitions in the following terms:-

- i) The claim of the petitioners for the release of their constructed properties from acquisition shall be considered by the respondents in the light of the Government policy dated 26.10.2007, as modified from time to time, on the premise that construction was raised by them prior to issuance of notification under Section 4 of the Act. Resultantly, the constructions which are not found to have obstructed any 'public utility' shall be released in accordance with this policy;*
- ii) Wherever any constructed property is required to be demolished for completion of a 'public utility' the effected land-owners shall be allotted residential plots in accordance with the policy decision dated 9.11.2010;*
- iii) The entire exercise, as directed above, shall be completed within a period of four months from the date of receiving a certified copy of this order.*
- iv) The interim directions issued earlier by this Court shall continue to operate till the completion of afore-stated exercise.”*

4. In pursuance of the above, it is apparent that the State carried out the exercise and looked into the claim of the petitioners and the above speaking order dated 09.06.2014 (Annexure P-11) is the subject matter of challenge in the present petitions. The relevant part of the same reads as under:-

“iv) CWPs in which the land has not been recommended for release because the land is affecting the public utilities i.e. development plan road and the land is vacant at site- In respect of following five CWPs, the claimed land is falling under the

sector road and hence not recommended for release:-

1. *CWP No.4498 of 1993 titled as Jugti Vs. State of Haryana.*
2. *CWP No.4431 of 1993 titled as Bhagawanti Vs. State of Haryana.*
3. *CWP No.6966 of 1993 titled as Jarnal Kaur and others Vs. State of Haryana.*
4. *CWP No.3711 of 1993 titled as Bhagwanti and others Vs. State of Haryana.*
5. *CWP No.4423 of 1993 titled as Lal Singh Vs. State of Haryana.”*

5. It is, thus, apparent that the orders passed earlier were duly complied with and the land has not been recommended for release apparently because it is not covered under the policy dated 26.10.2007 or 24.1.2011. The argument now raised is that constructions on the spot photographs of which have been shown, does not inspire much confidence. The earlier order was passed way back in the year 2013 in the petition filed in 1993 and subsequently the present writ petition had been filed in the year 2014. Apparently, taking advantage of the pendency of the litigation, the constructions seem to have been raised in temporary godowns on the highway, which apparently has fallen in way of planned development of the State of Haryana.

6. Thus, in the circumstances, we are of the considered opinion that having lost the litigation by raising a challenge earlier on merits before the Division Bench, as such, to the acquisition and given a liberty to the limited extent, whereby the State was to consider the claim, the petitioners, as such, cannot agitate afresh when the State has already looked into their grievance. It is also pertinent to mention that vide the impugned order, as such, the speaking order goes on to show that the State considered the case of all persons and some were recommended for release in the various writ

petitions, whereas there were other categories of land which have not been included for release and in certain cases where land had not been recommended for release because the built up area already stood released and some construction had been raised after issuance of Section 4 notification and planning of sector is affected. Thus, the speaking order would go on to show that proper application of mind was there.

7. In **CWP-3252-2015** filed by Gulab Singh, challenge has been raised to the same notifications on the ground of lapsing under Section 24(2) of the 2013 Act. Petitioner is stated to have purchased two portions of 2-1/2 marlas of land each in village Fazilpur vide sale deeds dated 30.01.1989 and 31.08.1989, who is stated to have built his house and Haryana Departmental Store in the said portions. It is admitted that the award was made on 12.05.1993 and it is in such circumstances on the ground of possession, he had filed the writ petition for the first time in the year 2015. The legal notice dated 31.08.2014 (Annexure P-7), on the basis of which he had filed the writ petition on the ground that the proceedings have lapsed under the 2013 Act, thus, though admitting that a period of more than 21 years has elapsed before he approached this Court. It is, thus, apparent that they have never challenged the award at the relevant point of time and had become an unauthorized occupant after the award had been passed in the year 1993. The Apex Court in ***Indore Development Authority's case (supra)*** has held that filing the petition at a belated stage as such would not enure in favour of the persons and, therefore, we are of the considered opinion that the petition which had been filed had only been adjourned to await the judgment of the Apex Court on the controversy in question. The matter having been settled conclusively, there is no cause

to further continue the proceedings.

8. Thus, we do not find any reason now to continue with the litigation and the present writ petitions are accordingly dismissed. Needless to say that since the petitioners are in possession of the land for quite some time, it would be appropriate if the State gives them time to vacate the possession of the land in question by 31.12.2024.

9. Petitions are dismissed.

(G.S. SANDHAWALIA)
JUDGE

22.07.2024
lucky

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No