

2024:PHHC:119004-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17696-2019 (O&M)

Decided on: 10.09.2024

Jai Parkash & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

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

Present:- Mr.Shailendra Jain, Sr.Advocate
with Mr.Vikrant Rana, Advocate for the applicant-petitioner (s).

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

Mr. Ankur Mittal, Advocate
Ms.Kushaldeep K.Manchanda, Mr.Siddhant Arora Advocates
for respondent-HSVP.

G.S. Sandhawalia, J. (Oral) :

CM-4404-CWP-2024

1. Application for placing on record replication to the written statement filed on behalf of respondent No.3, is allowed. Same is taken on record. Office to tag the same at appropriate place.

2. CM stands disposed of.

CWP-17696-2019 (O&M)

3. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India, is to the acquisition proceedings initiated on 17.04.2002 (Annexure P-3) under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') and the award dated 25.06.2004 (Annexure P-5) passed under Section 11 of the Act, as the same have become unviable and

Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement (Haryana Amendment) Act, 2017 (for short, the '2017 Act')

4. The petitioners are apparently co-owners in several parcels of land as per the pleadings, situated in the revenue estate of Bahadurgarh. The land was sought to be acquired along with land in Villages Sarai Aurangabad, Barkhtabad and Balor, for the purposes of residential, commercial and institutional development of Sector 1 (Part), Sectors 10-11 (Part), 12 & 13, Bahadurgarh by the erstwhile HUDA and the total land sought to be acquired was 1326.4 acres, as per pleadings. It is claimed that after the quashing of the award, the petitioners have not withdrawn the compensation against their acquired land. It is, thus, pleaded that one Gulshan Kumar Nindwani, who was running a saw-mill, situated in the immediate vicinity of the petitioners' land, had approached this Court and an order was passed on 12.12.2016 (Annexure P-12) to look into his application and therein the land had been released.

5. It is submitted that the petitioners along with one Sukhbir Singh approached this Court in CWP-11429-2014 titled *Sukhbir Singh & others Vs. State of Haryana & others* and it was directed vide order dated 05.05.2015 (Annexure P-13) that the relief of lapsing under Section 24 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 was prayed for on the ground that they were still in physical possession and they had already deposited the compensation received by them. It is submitted that the representation was rejected vide order dated 31.03.2016.

6. It is not disputed that the petitioners had also filed CWP-20319-2016 titled *Jai Parkash & others Vs. State of Haryana & others*, to

set aside the said order and the writ petition was dismissed for non-prosecution on 13.01.2023. The said order reads as under:

“Learned Additional Advocate General, Haryana, submits that the issue involved in the petition is squarely covered by the decision of the Supreme Court, rendered in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496**, the said decision has come during the pendency of this petition.

Be that as it may, none appears on behalf of the petitioners.

Dismissed for non-prosecution.”

In such circumstances, the present writ petition has been filed that the land has become non-viable and non-essential and directed to be de-notified.

7. In response, the State has verified that the petitioners are co-owners in possession of land comprised in Khasra No.1002/2 (0-14), 1003/1 (0-7), 1020/1 and 1020/2 (1-10) and were owners of the land comprised in Killa No.1020/2. A sum of Rs.72,57,04,098/- was deposited as compensation for all the landowners and out of the same, an amount of Rs.53,59,11,899/- has been paid and the remaining amount of Rs.18,97,92,199/- is still lying deposited and ready for disbursement and Rapat Rojnamcha No.1318 dated 25.06.2004 was recorded whereby the possession of the land was taken over and handed to HSVP and the compensation amount having been duly tendered, the acquisition proceedings are complete for all practical purposes. It is submitted that the land in question affects the Truck Stand and parking, Milk Chilling centre and Electric Sub-station and therefore, it is essential for the public purpose for which the land was acquired. Relevant demarcation plan and lay-out plan are annexed as Annexure R-1.

7. Replication has been filed in order to controvert the pleadings taken by the State and stand taken is that there are thickly populated colonies which have been denotified and therefore, claim for parity is made by the petitioners. The site-plan is also attached showing the land which has been released in the neighbourhood and therefore, it has been argued by Senior Counsel for the petitioners that no development has been carried out in and around the area and therefore, the land is liable to be released.

8. It is pertinent to notice that the State, in its reply filed, has also taken the plea that the petitioners are co-owners and the petitioners had never filed objection under Section 5-A of the Act. It is, thus, apparent that this is the third round of litigation. The petitioners having failed to lay challenge regarding the rejection of the release of land on earlier occasion, after 2004 thereafter, came again on the issue of lapsing and the writ petition was dismissed on account of non-prosecution and the third round has been initiated under Section 101-A of the 2017 Act. It is settled principle that we are not to sit over the decisions of the experts of Town & Country Planning who, as per the site-plan, have specifically pointed out the public utility of the land in question. It is apparent from the pleadings that there was a saw-mill existing on the basis of which the release order was passed in the case of Gulshan Nandwani who had approached this Court along with others, the lead case being Girdhari Lal & others decided on 21.04.2014. Gulshan Nindwani had filed CWP-12718-2014 at that point of time and the same was allowed on 25.04.2014 and the acquisition of the petitioners' land was quashed, subject to the orders passed in **Reshma Footwears Pvt. Ltd. Vs. State of Haryana &**

others, 2013 (30 RCR (Civil) 359, which was a case where certain landowners, at the initial stage, challenged the release of land for various owners and therefore, the petitioners herein cannot claim parity on that account. The State was just implementing the orders of this Court and the mutation had been duly entered in his favour and therefore, no parity, as such, can be sought with Gulshan Nindwani's case who was stated to be the co-sharer of the present petitioners.

9. In similar circumstances, in CWP-2671-2022 titled *Trishla Jain & others Vs. State of Haryana & others* decided on 30.08.2024, similar plea taken was rejected while giving reference of dismissal of CWP-19246-2017 titled ***Rajesh Malik Vs. State of Haryana & others***, decided on 30.07.2021 wherein 16 petitions were dismissed on the plea that the decision on which reliance was placed had been filed way-back in the year 2004 and the writ petition was being filed in 2017 and the same was liable to be dismissed once compensation having been deposited and possession having been taken in the said case also where there was utilization of the acquired land for building of a green-belt of the 12 meter wide road, Group Housing Site No.2, 3 & 4, as per the lay-out plan. The fact that in similar cases also, the landowners were co-sharers and were owners of 1 kanal of land each out of larger chunk of 8 kanals 6 marlas and did not have any specific portion in their possession and therefore, the other co-sharers having accepted the acquisition proceedings and the amount duly tendered, weighed with us. Resultantly, we hold that delay aspect would also come into play while placing reliance upon **Municipal Corporation of Greater Bombay Vs. The Industrial Development & Investment Company Pvt. Ltd., 1996 (11) SCC 501, Jasveer Singh &**

others Vs. State of U.P. & another, 2017 (6) SCC 787 and Government of A.P. & others Vs. Kollutla Obi Reddy & others, AIR 2006 SC 642.

10. In the present case, as noticed, the co-sharers already successfully got the proceedings quashed whereas the present petitioners chose to sleep over their rights and therefore, failed in two occasions. The Apex Court in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496** has held that by taking of the possession vide entry in Rapat Roznamcha, the possession of the petitioners is unauthorized and illegal and they are, thus, only rank trespassers after the passing of the award, 20 years earlier.

11. Reliance by Senior Counsel for the petitioners upon **Raghubir singh & another Vs. State of Haryana & others, (2022) 4 SCC 728** would not take him long way as it has been held in the said case that the State has the power to de-notify the land but it does not give any vested rights to the landowners. The said aspect was further examined by the Apex Court in **Civil Appeal No.16421 of 2021** titled **Ram Swaroop (Dead) through LRs & another Vs. State of Haryana & others**, decided on 15.11.2021 and it was noticed that the effort is only to hold on to the possession of the land. Relevant portion of the judgment reads as under:

“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. Thus, on account of the fact that there is specific stand of the State, duly enumerated above, we are of the considered opinion that the claim by way of filing the writ petition is liable to be rejected. The petitioners have continued to be in possession for a period of 20 years since the passing of the award without even an interim order in their favour and the resultant affect is that the planned development of the area has been hampered. Thus, we do not find any plausible reason to allow the present writ petition for the prayer which has been made.

13. Accordingly, in view of the above discussion, the present writ petition is hereby dismissed. All pending application(s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

10.09.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No