



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.11633 of 2017
Date of Decision: 20.08.2024**

Opinder Singh Virk and another

.....Petitioners.

Versus

State of Haryana and others

.....Respondents.

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

Present:- None for the petitioners.

Mr. Ankur Mittal, Addl. A.G, Haryana with
Mr. Saurabh Mago, DAG, Haryana
for respondents No.1 to 3.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate
for respondent No.4.

G.S. SANDHAWALIA, J.(Oral)

Challenge in the present petition filed under Article 226/227 of the Constitution of India is to the notifications dated 02.01.2002 (Annexure P-1) and 24.12.2002 (Annexure P-3) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act'), respectively. The award had also been passed on 21.12.2004 and the present writ petition was filed in May, 2017 after 13 years after the land vested in the State. On May 25, 2017, notice of motion was issued by recording the following contention of learned counsel for the petitioners:-



“Learned counsel for the petitioners submitted that neither the amount of compensation has been paid nor the possession of the part of the land on which certain constructions have been raised, has been taken from the petitioners. The area under construction is 3 kanals and 5 marlas.”

2. On the last date of hearing, i.e 18.01.2024, learned counsel for the petitioners had pleaded no instructions and therefore, Court notices were issued to the petitioners. As per the office report, Tejinder Singh Makkar, who was the special Power of Attorney of both the petitioners, has expired. A perusal of the Memo of Parties would go to show that the petitioners are residing in USA. In such circumstances, we proceed to dispose of the matter in view of the stand taken by the State.

3. The present writ petition was filed for seeking the release of residential houses over 03 Kanals 05 Marlas land falling in Khasra No.32//13 and 18 of the revenue estate of village Budha Khera, Tehsil and District Karnal and challenging the speaking order dated 16.02.2017 (Annexure P-27) passed by the Administrator, HUDA-cum-Additional Director, Urban Estates, Haryana. As per the averments made by the petitioners, they have inherited the land measuring 249 Kanals 16 Marlas from their father in equal shares, as detailed in para No.2 of the petition. It is stated that out of this property, the petitioners had constructed their residential house in the aforesaid land measuring 03 Kanals 05 Marlas prior to the initiation of land acquisition proceedings.

4. It is not disputed that the acquisition was sought for



developing Sector-9 Part and Sector 32-33 Part, Karnal by the erstwhile HUDA, now HSVP, vide notification under Section 4 of the Act (Annexure P-1). Against the said notification, the petitioners had filed their written objections (Annexure P-2) under Section 5-A of the Act. As per the written objections, the petitioners have installed about 6 tube-well being run by electric connections and the land is being used for the horticulture purposes which are more profitable to the claimant and the other farmers of the locality. It is pleaded that out of the land being acquired measuring 36 acres, there is an orchard/garden adjacent to the Farm House/Dera (residential) and a building adjacent to the Dera which is being used by the petitioners for daily farming purposes which covers about 02 acres land and the construction of the Dera is 'A' class and it is 10 years old. The petitioners have also installed a submersible tube-well fitted with Motor of 5 BHP. In such circumstances, the objections have apparently been raised before the authorities.

5. The stand of respondents No.1 and 3 in their written statement is that the petitioners were duly heard on 04.10.2002 and it was found that in Khasra No.32//13 and 18, there existed boundary wall and farm house and 4 'A' class construction of 13x14, 41x1 and 11x9 only and the recommendations were made by the Land Acquisition Collector to acquire the entire land except 'A' class construction. Since the construction was stated to be affecting the proposed bye pass/ ring road and the green belt thereof, therefore, the land of the petitioners was approved for being acquired. The proclamation is stated to have been done and Rapat No.209



dated 30.12.2002 was entered into this effect in the Rojnamcha Waqyati of Patwari Halqa, Village Budha Khera. Thereafter, the Award No.22 of Village Budha Khera was announced on 21.12.2004 and the land measuring 286.98 acres was acquired out of land measuring 344.31 acres of Village Budha Khera, which had been notified under Section 6 of the Act.

6. It is also submitted in the written statement that the total acquired land of the petitioners was 249 Kanals 16 Marlas and the compensation amount of Rs.2,06,88,230/- was tendered. The petitioners have already received the substantial amount of Rs.2,05,64,002/- by cheques No.371550 dated 07.04.2010, 014243 dated 10.06.2008, 299404 dated 14.07.2006, 37170 dated 08.07.2010 and 014242 dated 03.10.2007, which is much before the filing of the present writ petition. Only a balance of Rs.1,24,228/- is left in respect of land measuring 01 Kanal 10 Marlas and the amount of compensation awarded to the petitioners was contested and finally, the Reference Court on 24.07.2009, awarded a sum of Rs.7,74,13,885/- to the petitioners. The Special Leave Petition No.36271-95 of 2014 titled as ***Raghubir Singh and another Versus State of Haryana and others*** was filed and the enhanced compensation of Rs.2,41,82,214/- is stated to have been granted to the petitioners.

7. It is further submitted in the written statement that the land of the petitioners measuring 128 sq. yards, including 64 sq. yards covered area, was released from acquisition, which was being used by the petitioners as care-taker residence vide order dated 15.07.2008 as per the



Haryana Government Policy dated 26.10.2007. It is submitted that the remaining land which is being used for keeping cattle within the reserved site for parking of banquet hall and commercial area as per the approved layout plan cannot be released. As such, there is no issue of discrimination as pleaded by the State and only 26.05 acres land in Sector-33 and 55.71 acres land in Sector-32 was taken out from the planned development and the license was granted to the original land-owners strictly as per the policy and the license applied by the True Zone Buildwell was rejected vide order dated 27.04.2010 by the High Powered Committee. Similarly, as regards the land of Noormahal Hotel, it was never acquired by way of the present acquisition proceedings. It is submitted that the petitioners are residing in foreign land and not on the land in question, which is being used for cattle and for keeping their fodder. The amount of Rs.1,24,228/- is lying deposited in the account of Land Acquisition Collector and is available for payment immediately on demand of land owners.

8. It has also been pointed out in accordance with the planned development for which the land had been acquired, more than 3000 residential plots have already been allotted, out of which 2331 plots were allotted in Sector-32, Karnal alone. The land has duly been utilized for the purpose for which it was acquired and by way of this petition, the petitioners intend to linger on the proceedings without any rhyme and reason.

9. Keeping in view the above, since no one has come to contest the present petition and in the peculiar facts of the case, the notice of



motion was issued on the ground that the amount of compensation has not been paid and the possession of the part of the land on which certain constructions have been raised, has been taken from the petitioners, we are of the considered opinion that the land-owners have already benefitted by following the due process of seeking adequate compensation right upto the Apex Court and there being no replication filed to the written statement way back in the year 2021 to the type of construction and the area of release, there is no merit in the instant petition and the same is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

August 20, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No