

CWP-15854-2016 (O&M) - 1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

233 CWP-15854 of 2016 (O&M)
Date of Decision: 13.02.2024.

Surjeet Singh and others ...Petitioners.

Versus

State of Punjab and othersRespondents.

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Amit Jain, Sr. Advocate with
Mr. Chetan Salathia, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

Mr. R.S. Khosla, Sr. Advocate with
Mr. Yogender Verma, Advocate
for respondent No.2.

Sureshwar Thakur, J. (Oral)

1. On an earlier filed Civil Writ Petition No.6586 of 2010, the directions as made thereons on 21.12.2010 (Annexure P/1), by this Court, becomes hereinafter extracted directions:-

“In the above said letter, it is stated that in principle, the State has agreed to release land of the petitioners and a notification, to de-notify the same will be issued shortly. In view of above mentioned fact, this writ petition has become infructuous and the same is disposed of accordingly. Directions are issued to the State authorities to comply with the

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undertaking given in letter, mentioned above. Needful be done expeditiously.”

2. It is but evident on a reading of the order dated 21.12.2010 (supra), as became made by this Court, that therein, the present petitioners had claimed the relief for quashing the Notification dated 05.02.2009, as became issued under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act').

3. Importantly, the relief claimed therein, was in respect of the land measuring 929.73 acres located in Village Chater, therefore, it is apparent besides ex-facie evident, on reading the said order, that therein the petitioners had propagated relief, thus in respect of vacant lands, and, rather not in respect of construction, if any, as occurred thereons, prior to the issuance of the said notification.

4. The requisite compliance of affidavit, became furnished by one Sukhjeet Pal Singh, Additional Chief Administrator, GMADA, wherein, in paragraph No. 8 thereof, para whereof became extracted hereinafter, it is unfolded, that the Government has ordered for release of the residential houses of those land owners, who are also reflected in Annexure R2/1, to rather raise the constructions, prior to the issuance of notification (supra), and, as such were covered within the ambit of the relevant policy.

“The consequently, considering the representations received from the concerned land owners and subsequent report of the then Land Acquisition Collector, the Government decided to release area falling under the residential houses of said petitioners, which was situated in Khasra Nos.94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104 and 105 total land measuring

11 Bigha-8 Biswas (2.375 acres) situated in Village Chat. However, the uncovered area of vacant land or baras was not released for future use of village or Aero City after making planning. A copy of gazette notification No.3978 dated 27.12.2010 issued by the Government of Punjab, Department of Housing & Urban Development under Section 48(1) of the Land Acquisition Act, 1894 is annexed herewith as Annexure R2/1.”

5. Since the Award No.508 dated 16.04.2010 has been pronounced besides when also, it recorded in Annexure R2/1, that the constructions, as raised by the present petitioners over the acquired land were raised, post the issuance of notification (supra). Therefore, it is stated in the said compliance affidavit, as also in Annexure R2/1, that thereby the residential houses, in the present petition are not covered within the domain of the relevant policy, rather permitting release of any such residential houses, which were raised on the vacant lands, prior to the issuance of a notification under Section 4 of the Act, 1894. Resultantly, it is also contended, that when at the stage (supra), there was complete divestment of right, title, or interest over the acquired lands in the land losers concerning, consequently when, there was complete vestment of right, title, or interest in the acquiring authority over the acquired lands. Consequently, it is contended that the constructions (supra) are required to be demolished, as thereons the requisite public purpose, as revealed in the lay out plan, is required to be furthered.

6. Though, the above made echoings in the compliance affidavit and in Annexure R2/1, do not constrain this Court to allow the writ petition

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but the learned counsel for the petitioner argued that the residential houses as became raised by the the present petitioner were raised even prior to the issuance of the notification under Section 4 of the Act.

7. However, the above argument loses its force in light of a reading of the earlier writ petition, revealing therein, that claims were made qua de-notification of the vacant lands of the petitioners. Therefore, besides when the instant writ petition has been filed in the year 2016, as such, but obviously in the interregnum interse (2010 and 2016), some constructions were raised on vacant lands. In sequel, the said raised constructions are deemed to be made post the issuance of a notification under Section 4 of the Act. Moreover, it also appears that despite, complete vestment of right, title and interest becoming bestowed upon the acquiring authority, yet unauthorized constructions, rather becoming raised on the acquired lands, through trespassing, becoming made on the vacant pieces of lands by the petitioners.

8. Thus, finding no merit in the present petition, the same is dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

13.02.2024
komal

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