

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

CWP No.15088 of 2024

Sardar Singh and Ors.

.....Petitioners

Versus

State of Haryana and Others

.....Respondents

Reserved on: 10.07.2024

Date of Decision: 19.07.2024

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Manoj Tanwar, Advocate for the petitioners.

Mr. Ankur Mittal, Addl.AG, Haryana

Mr. P.P. Chahar, Sr. DAG, Haryana

Mr. Saurabh Mago, DAG, Haryana.

SUDEEPTI SHARMA, J

Challenge in the present petition is to order dated 10.04.2024 (Annexure P-17) whereby respondent No.2 has declined the relief under Section 101-A of the Right to Fair Compensation and Transparency in land Acquisition, Re-habilitation and Re-settlement Act, 2013 (hereinafter to be referred to as “the Act”) to the petitioners.

SUBMISSIONS OF THE COUNSELS

Learned counsel for the petitioners contend that the petitioners are still in possession of the land, therefore, the direction be issued to the respondents to release the land of the petitioners.

Per contra, learned State counsel contends that order dated 10.04.2024 is self speaking and the claim of the petitioners to release their land under Section 101-A of the Act has rightly been rejected.

We have heard learned counsel for the parties and perused the

record.

A perusal of the speaking order shows that the State Government in the Industries Department issued notification under Section 4 of the Land Acquisition Act, 1894 for acquisition of land measuring 179 Acres 1 kanal 6 Marla on 25.07.2006 in the revenue estate of villages Soadpur and Kassar, Tehsil Bahadurgarh, District Jhajjar for the public purpose, namely, for setting up of the Industrial Estate, Bahadurgarh to be planned and developed as an integrated complex for Industrial and other public utilities etc. Award of land measuring 176 Acres 4 Kanal 12 Marla was announced by the DRO-cum-LAC, Jhajjar on 14.02.2008.

The petitioners filed CWP No.7434 of 2014 titled as Sardar Singh and others vs. State of Haryana and Others, seeking relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, which was disposed of vide order dated 20.05.2015 with liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the writ petition before the appropriate Authority. In compliance of order dated 20.05.2015, the representation of the petitioners was decided vide speaking order dated 02.02.2017 vide which claim of the petitioners was rejected. The petitioners again filed a writ petition bearing CWP No.4741 of 2017 challenging the acquisition proceedings under Section 24(2) of the Act and also for quashing order dated 02.02.2017. Said writ petition was dismissed with liberty to the petitioners to invoke Section 101-A of the Act, in accordance with law.

Before proceeding any further, it is worthwhile to reproduce Section 101-A of the Act, which reads as under:

“101A. Power to denotify land- When any public purpose, for which the land acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894) becomes unviable or non-essential, the State Government shall be at liberty to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the land owner due to such acquisition:

Provided that where a part of the acquired land has been utilized or any encumbrances have been created, the landowner may be compensated by providing alternative land alongwith payment of damages, if any, as determined by the State Government.”

Accordingly, the petitioners filed their representation on 29.08.2022. The main issues raised in the representation, as per the speaking order, are as under:

- “i) Land falling in Khasra no.38//2/2(3-7), 3/2(0-10), 8(3-1), 9(7-18), 10(8-0) at village Kassar, Tehsil Bahadurgarh, District Jhajjar belongs to the applicant which was included in the Notification dated 25.07.2006 issued U/s 4 of the Land Acquisition Act sought to be acquired for setting up of the Industrial Estate, Bahadurgarh.*
- ii) For the purpose of release of land of the petitioners, CWP 2516/2008, CWP 7434/2014 and CWP 4741/2017 was filed by the petitioners before the Hon’ble Punjab and Haryana High Court.*
- iii) A period of more than 5 years has elapsed since the pronouncement of the Award and the land remained unutilized till date. Accordingly, the same is eligible to be returned to the farmers/landowners.*
- iv) Further, the 0K-2M of their land has already been released due to the existence of mandir/religious structure.*
- v) In view of the above, it has been requested to consider the release of their land u/s 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017.”*

After granting the petitioners an opportunity of personal hearing, the claim of the petitioners was rejected vide impugned order dated

10.04.2024 on the following grounds:

“In regard to the status of development of acquired land, the planning proposals of the area have already been finalised and development works have already been executed at site. Approx 50 industrial plots have been carved out on the acquired land of Sector-3B, 4A-B and 17 (Part)1.E Bahadurgarh wherein most of the plots have already been allotted. Furthermore, on most of the allotted plots, Industrial production is going on. Furthermore, an amount of Rs.103 Cr (approx) has been incurred on the development works qua the total acquired land of Sector 4B, Industrial Estate, Bahadurgarh, Distt Jhajjar.

Land involved in the present case is vacant at site. As per approved layout plan, the land in question is affecting R&R Plots which have already been allotted to the ex-landowners and also affecting the part construction of 18 mtr and 12 mtr wide road proposed under R&R Pocket. The land vests with HSIIDC after passing of the award and taking over of possession and therefore the applicants are in illegal possession of the land.”

As per the speaking order, the land vested with HSIIDC and that the mutation was also sanctioned in favour of HSIIDC. It stands noticed in the speaking order that the development works on the total acquired land was executed and on most of the allotted plots, industrial production was going on. The compensation was also granted to the land owners. It is further recorded in the order that the land acquired under the Land Acquisition Act, 1894, does not fall under the category of ‘unviable or non-essential’, which are the essential ingredients for consideration of release of land under Section 101-A. The developmental work has already been executed on the acquired land and the said land has been converted into a planned industrial estate with all necessary infrastructure and is generating both employment and revenue for the State.

Having considered all the aforesaid aspects, the Committee

found that the land in question was very much required for public purpose and had not become “non-essential and unviable”, therefore the claim of the petitioner raised under Section 101A was rejected vide the impugned order.

A bare reading of Section 101A of the Act shows that the State Government has the power to de-notify the land acquired under Land Acquisition Act, 1894, in case it becomes ‘unviable or non-essential’ whereas in the present case, the land has been acquired and utilized.

In view of the above, we do not find any infirmity in the impugned speaking order. Hence, finding no merit in the present petition, the same is dismissed.

All pending applications(s), if any, stand disposed of.

July 19, 2024	(Sureshwar Thakur)	(Sudeepti Sharma)
manoj	Judge	Judge

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