



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

212

**CWP-2029-2018**  
**Date of Decision: 28.08.2024**

DILAWAR SINGH RAI

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

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Present: - Mr. Bhupinder Banga, Advocate  
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab  
for respondents No.1 to 4.

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**VINOD S. BHARDWAJ, J. (ORAL)**

The prayer in the present writ petition is for issuance of directions to respondents No.2 to 4 to forthwith register the sale deed of the petitioner with regard to the land mentioned in the agreement (Annexure P-1) dated 05.08.1998 on the basis of the collector rate prevailing as on 11.08.2000 when acquisition proceedings (Annexure P-2) were initiated by the respondents.

2. Learned Counsel appearing on behalf of the petitioner contends that he had entered into an agreement to purchase the suit property from the vendor/respondent No. 5 as per the agreement executed on 05.08.1998. The respondents, however, initiated process for acquisition of the land vide notification dated 11.08.2000 i.e. prior to the agreement being presented for registration. The sale deed with respect to the land was thus not registered in

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favour of the petitioner by the respondents due to the acquisition proceedings initiated vide notification under Section 4 having been issued on 10.07.2008 and notification under Section 6 having been issued on 06.01.2009. He contends that an application was moved by the petitioner for apportionment of compensation in his favour on 08.01.2010 whereupon the Deputy Commissioner, Hoshiarpur/respondent No.2 forwarded the said application of the petitioner to the Sub Divisional Magistrate/respondent No.3 for taking an appropriate decision. It is submitted that no compensation was however disbursed to the petitioner. He thereafter approached the authorities for registration of the sale deed in his favour in the year 2017 (Annexures P-7, 8) after the land was released from acquisition vide Memo No. 5/24/07/2/ADA (2)/370 dated 05.02.2013 due to award not being passed in time. He contends that the respondents could not register the sale deed on account of the pending acquisition proceedings and as such, the respondents are not justified in demanding the charges at the collector rate for the year 2017 and instead the sale deed in question ought to be registered on the basis of the collector rate as was prevalent in August, 2000, when the proceedings were initiated for acquisition of the land.

3. Reference is made to the judgment in the matter of “Manoj Kumar versus State of Haryana” passed in CWP-12094 of 2007 decided on 04.02.2008 wherein it was held by a Division Bench that when the Vendor is not executing the sale deed and a decree had to be obtained by the Vendee under the Specific Relief Act for specific performance of the agreement, the



stamp duty payable is as on the date when the Vendor was obligated to register the sale deed and not on the date when the sale deed was registered in execution of the judgment and decree passed by the Court.

4. Counsel for the respondent-State on the other hand contends that the factual aspect as stated above is not a subject matter of dispute, however, the petitioner never approached to the respondents for execution of the sale deed. No steps were taken by the petitioner at any time prior to the year 2017 for getting the sale deed registered, after the execution of the Agreement to Sell in the year 2008. The relevant extract of the reply filed is reproduced as under.

*“4. That the petitioner cannot take the benefit of its own wrong. As a matter of fact, in the year 2000, a notification u/s 4 of Land Acquisition Act 1894 was issued for the construction of the Administration Block, in which the total land 26 Kanals 18 Marlas 2 Sarsahi was acquired bearing khasra no. 219/70 (6-16), 220/70(0-15), 221/70(0-11), 228/79(2-9), 229/79(0-5), 230/79(1-2-6), 231/79/4(6-15), 114/75(5-9-5), 71(2-15). Copy of notification is attached as Annexure R-1. Later on within the stipulated period, the award of this notification was passed on 10.12.2002 for the same purpose and some other land was also acquired and as such, the total land has become 59K-14M-5 Sarsahi bearing khasra nos. 219/70(6-16), 220/70(0-15), 221/70(0-11), 228/79(2-9), 229/79(0-5), 230/79(2-5), 231/79/4(6-15),*



*114/15(5-9-5), 71(7-13), 223/72(2-13), 73(4-16), 201/112 (5-1) 202/112(10-4), 93/74(1-6), 226/77(2-9), 78(0-7), situated at Sikh Line, H.B. No.375. The copies of the notification dated 31.10.2003, 10.12.2002 and corrigendum are Annexure R-2, R-3/A and R-3/B. It is worthwhile to mention here in the said notification, the khasra nos.106/95(9-1), from which the petitioner purchased the land was not acquired for the purpose of construction of Administration Block. If the petitioner wants to execute the sale deed in his favour, then he can easily get executed from vendor, but he did not take any step to get executed the sale deed since 2000 to 2008. Later on, in the year 2008 another notification for acquisition of land for the purpose of construction of Judicial Complex was issued u/s 4 on 10.07.2008, in which the total land 154 Kanals 9 Marlas was acquired. The land 128 Kanal 14 Marlas was acquired from the village Sikh Lines and 25 Kanal 15 Marla was acquired from village Premgarh, comprising of khasra nos.203/128(4-15), 130/54(25-9), 55(1-0), 218/119(4-2), 110/90 (6-19), 96/74(2- 1), 129/54(8-2), 204/128 (2-5) 217/109 (1-18), 111/92(2-10), 224/91/74 (4-5), 105/95min(8-0), 201/112min(1-17), 106/95(9-1) 225/91/74(13-0), 94/74(0-13), 202/112min(3-16), 131/62min(1-14), 132/62min(0-5), 107/102min(1-0), 208/101min(0-5), 134/120 min(1-8), 205/57(0-17), 206/57min(5-*



19), 104/59min(11-9), 117/56(0-5), 118/56(0-18), 207/57min(2-4) 200/112min(2-17), 1451(6-16), 4120/1452min(0-12), 4113/1450min(3-2), 4332/3967min(0-10), 4333/3967min(0-17), 4336/4001min(0-7), 4337/4001min(0-18), 4338/4001min(1-8), 4339/4001min(2-6), 4340/4001min(2-8), 4342/4001min(1-17), 4344/4001min(0-3), 4345/4001min(0-3) 4347/4001min(0-7), 4348/4001min(1-6), 4349/4112min(0-5), 4350/4112min(2-10) and the copy of the same are Annexure R-4 and copy of Award dated 06.01.2009 are Annexure R-5 attached herewith. It is worthwhile to mention here that the property of the petitioner was acquired by the Govt. in the said notification issued in the year 2008, but later on, the said notification was removed from the jamabandi on 16.03.2013, as the award of the same was not passed by the Govt. As such, the petitioner was having sufficient time to get executed the sale deed from the vendor, but he did not do anything for the same. Land of the Petitioner is free from acquisition w.e.f. year 2013 after lapse of notification."

5. Even though the above said reply was filed on behalf of the respondents in the month of October/November 2019, however, no rejoinder was filed by the petitioner to controvert the above specific stand of the respondents about the petitioner having never approached the respondent-authorities for seeking registration of the sale deed in his favour.

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6. I have heard the learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.

7. Notwithstanding no denial of the specific averments of the respondent-State that the petitioner never took any steps for presentation of the document for registration before the competent authority prior to 2017, a specific query was also posed to the Counsel for the petitioner to refer to any documents/evidence on the basis whereof it may prima facie be construed that the petitioner had approached the respondent-authorities for registration of the document at any earlier point in time and the same was not received by them owing to the initiation of the proceedings for acquisition. He fairly submits that there is no documentary evidence in his possession to substantiate the said assertion. A specific query was also raised as to whether in the representation submitted by him in the year 2010, did he seek for registration of the document or he had only applied for apportionment of compensation as a party interested. Since the said application submitted on behalf of the petitioner is not on record of this Court. He fairly submits that the aforesaid application was only for grant of compensation against the acquisition proceedings that had been initiated by the respondents and that the prayer in the said application was not in relation to registration of the sale deed in his favour. Accordingly, the statement of the Counsel for the petitioner is accepted. Hence, even in the said application, he does not ask for registration of a sale deed in his favour.

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8. Even on a specific query as to existence of any document on record to show that at any time prior to the year 2017, the petitioner approached the respondents for registration of the document in his favour, it is fairly submitted that he is not in possession of any such evidence but asserts orally that he had been visiting the office of respondents for seeking registration of the sale deed.

9. I am afraid that such oral assertion cannot be accepted in the wake of a specific denial by the respondents in their reply filed before this Court about petitioner approaching for registration and an assertion to the effect that the petitioner had not approached the respondents for seeking registration of the document prior to 2017. No replication/rejoinder had been filed by the petitioners to deny the specific averment so raised. An inference thus can only be drawn against the petitioner. Since the petitioner is claiming the benefit of stamp prevailing in an earlier year, the burden lies on him to show that he had approached the authorities earlier as well for registration of the documents and that the authorities refused to register the same. What however appears from the record is that he appeared seeking registration in the year 2017 only.

10. Under the given circumstances, the judgment relied upon by the Counsel for the petitioner would not be applicable to the facts of the present case because in the said precedent judgment, the sale deed could not be executed because the Vendor did not turn up for execution of the sale deed before the authorities and the Vendee had to approach the Civil Court for

seeking decree for specific performance of the Agreement to Sell. The readiness and willingness of the petitioner to get the sale deed executed at the time so mentioned in the Agreement to Sell could have been inferred only if any document established that he had actually opted to appear before the Registration Authority for registration of the deed.

11. This Court would thus be incapable at this juncture to grant the prayer sought for by the petitioner for issuance of direction to register the sale deed at the collector rate prevalent for the year 2000. The contentions at best is a disputed question of fact. The present writ petitioner is accordingly dismissed at this stage.

AUGUST 28, 2024

Vishal sharma

(VINOD S. BHARDWAJ)  
JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No