

2024:PHHC:089730-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

(1)

CWP-22173-2017

Jaipal Singh

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

(2)

CWP-1888-2018

Murlidhar

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

Decided on: 18.07.2024

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

Present: Mr.Krishan Singh, Advocate
for the petitioner in CWP-22173-2017.

Mr.Rajan Bansal, Advocate
for the petitioner in CWP-1888-2018.

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Magu, AAG, Haryana.

Mr.Pritam Singh Saini, Advocate
Mr.Deepak Singh Saini, Advocate, for respondent-HSIIDC.

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

1. Challenge in the present writ petitions, bearing CWP-22173-2017 and CWP-1888-2018, filed under Article 226/227 of the Constitution of India, is to the acquisition proceedings which were initiated on 15.11.2002 (Annexure P-3) issued under Section 4 of the Land

Acquisition Act, 1894 (for short, the 'Act') which led to the declaration

under Section 6 of the Act dated 12.11.2003 (Annexure P-5) in both the cases and eventually award dated 18.11.2005 was passed.

Facts of the second case :

2. It is apparent to mention that the writ petition CWP-1888-2018 was filed belatedly after 13 years to seek the relief under Section 24(2) of the Act declaring that the acquisition had lapsed as such and restore the land of the petitioners falling in the revenue estate of Village Khandsa, Tehsil & District Gurugram. The facts of CWP-1888-2018 would go on to show that it is the case of the petitioner that he is owner of the land measuring 8 Biswa 10 Biswansi and on an earlier occasion, had challenged the notifications in question whereby the State had sought to acquire the land for the purpose of development of integrated complex for industrial, institutional, commercial, recreational and other public utilities and situated in Villages Begumpur Khatola, Narsingpur and Khandsa, Tehsil & District Gurugram.

3. The petitioner-Murlidhar had firstly challenged the acquisition proceedings in CWP-19737-2005 on the ground that he was engaged in the business activities under the name and style of M/s Bansal Khad Store, Bassi Road, Gurugram and petitioner had purchased the land in dispute to install a factory for agricultural tools vide sale deed dated 07.03.2001. It was noticed by the Co-ordinate Bench that the State had released the property of some landowners and it was found that the site acquired was a vacant piece of land, acquired for the said public purpose. Keeping in view the fact that the petitioner has not even filed any representation and after considering the pros and cons of the acquisition and the fact that the Committee had upheld the acquisition of the land and

the writ petition was accordingly dismissed on 13.10.2006. For all practical purposes, the said proceedings had attained finality. Only on account of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (for short, the '2013 Act') being notified and on account of the notification dated 10.07.2015 (Annexure P-6), the second round of litigation has been initiated.

4. The petitioner, thereafter, filed second writ petition bearing CWP-14190-2015 on the ground that he is still in physical possession of the land and no compensation had been paid and the acquisition proceedings have lapsed. The writ petition was disposed of on 17.07.2015 at that point of time by taking the view that the authorities shall consider the issue. The representation filed by the petitioner led to the order dated 13.11.2017 (Annexure P-9) being passed. The Managing Director of HSIIDC-respondent No.3, vide detailed order, noticed that the land fell within the industrial zone and any construction which has been raised subsequently was unauthorized after the announcement of the award since on an earlier occasion the High Powered Committee had been formed. It had been found that the petitioner had not lifted the compensation and since the award had been announced on 18.11.2005, due challenge having been raised to the acquisition and dispossession had been stayed qua certain portion of the land. It was noticed that the petitioner had not lifted the amount of compensation and as per the award, Rs.73,65,76,938/- had been assessed and the amount of Rs.70 crores had been deposited by the HSIIDC in the account of DRO-cum-LAC. The development works had also been executed to the extent of Rs.51,73,77,296/- which was for the work of road network, water supply system and sewerage system. Out of

the total of 121 plots earmarked in the layout plan, 47 had already been allotted in the acquired land. Keeping in view the provisions of 24(2) of the 2013 Act, it was held that the purpose of the Act is to protect the acquisition proceedings already undertaken under the old Act and the possession of land had been taken. The symbolic possession having been taken and the petitioner having raised unauthorized possession and deposit having been made and in such circumstances, since the matter was pending before the Apex Court, the representation, as such, was rejected.

5. In the reply filed also, it has been mentioned that the land in question fall in industrial zone and as per the layout plan, the site affects 18 meters wide road and after considering the representation made by the writ petitioner, personal hearing had been given and that a stale claim could not be revived.

Facts of the first case :

6. The facts of CWP-22173-2017 are to the extent that the petitioner is owner in possession of the residential house in Khasra No.965/2/2 situated in Village Khandsa, Tehsil & District Gurugram. It is his own case that vide order dated 30.05.1983 (Annexure P-1), the petitioner was directed to remove the unauthorized construction in view of the order passed by the Director, Town & Country Planning, Gurugram under the provisions of Punjab Scheduled Roads & Controlled Area Restriction of the Un-regulated Development Act, 1963. The Tribunal had been approached which had directed the concerned authority on 03.03.2003 to consider the case of the petitioner under Section 14 of the Act and pass appropriate orders.

7. During the interim period, acquisition process had started on 15.11.2002 and petitioner had also filed objections on 11.12.2002 whereby he had raised the issue that there was construction raised on the said portion. A perusal of the said objection would go on to show that there were 12 pucca A-Class rooms in the periphery in question to the extent of the share of the petitioner and 28 shops and the family members would suffer as the estimated cost of construction was not less than Rs.50 lakhs. The petitioner approached this Court in CWP-19745-2004 and keeping in view the fact that there was a High Powered Committee constituted, liberty was given to take a decision and present his case before the Committee. Similar relief was also prayed in CWP-16142-2007 which was decided on 16.10.2007 (Annexure P-7) for decision on the representation. Stance however has been taken in the petition that neither there is a supplementary award nor the compensation has been deposited and therefore, protection under Section 24(2) of the 2013 Act was put into service.

8. Stand of the State is categorical regarding the fact that construction is unauthorized and the fact that the petitioner had never made any request for composition of the unauthorized construction on the land sought to be acquired which partly falls in Sector 34, Gurugram and partly in 50 meters wide green-belt along NH-8 in Sector 34, Gurugram, as per the site-plan.

9. The stand of the respondent No.3-HSIIDC is also clear that the amount of compensation for the structure was deposited way-back in the year 2008 as per the supplementary award passed dated 24.04.2008 (Annexure R-3/1) and only due to the litigation, possession could not be

handed over to the HSIIDC and amount of compensation deposited had not been lifted. Due to the location of the land of the petitioner, it was not available for release. Reliance has been placed upon the judgment of the Apex Court in **Indore Development Authority Vs. Manoharlal & others, AIR 2020 SC 1496**.

10. A perusal of the award would go on to show that name of the petitioner has been mentioned in Khasra No.965/2/2 at Sr.No.27 wherein the name mentioned wrongly is Jailal Singh son of Sardar Singh whereas the petitioner is Jaipal Singh son of Sardar Singh as per the description in the writ petition and the Khasra numbers tally. The amount of compensation has also been duly deposited. The site-plan would also go on to show that the construction is on the part of 30 meters wide road dividing the sector and as noticed, it is coming in the way for widening the road. It has further been mentioned in the reply that the acquired land was handed over vide Rapat Roznamcha No.648 dated 14.03.2006 and once compensation stood deposited and possession having been taken as per the entries in the revenue records, no case is made out under Section 24(2) of the 2013 Act. Thus it is apparent that the land of Jai Pal is forming part of road network comprising in Khasra No.965/2/2 and is required for 50 meters wide road and statutory green-belt along the NH-8 as the entire land of the petitioner falls within the road network/green-belt.

11. Keeping in view the law laid down in Indore Development Authority (supra), we are of the considered opinion that in CWP-1888-2018, apparently, after having lost the litigation initially on 13.10.2006, still claim is sought to be raised for which direction was sought to decide the same and notification dated 10.07.2015 (Annexure P-6) was issued at

the relevant point of time. Accordingly, keeping in view the above, the orders passed by the authorities below which are subject matter of challenge, does not suffer from any infirmity as the same are in consonance with the law laid down by the Apex Court and the petitioners could not be allowed to revive a stale and time-barred claim. Similarly, as noticed, the compensation for structure was also deposited in the year 2008 before filing of the writ petition by Jaipal Singh and therefore, the amount having been deposited, the State has done its duty after the evaluation having being done. Symbolic possession of the land has been taken and entries made vide Rapat Roznamcha No.648 dated 14.03.2006 after the award had been passed on 18.11.2005. In such circumstances, the procedure followed in the acquisition proceedings is not suffering from any legal infirmity which would warrant interference by this Court. The land is being acquired for the public purpose for the development of the area, as noticed above and since the land of Jai Pal Singh is coming in the road network/green-belt, the authorities were justified in not considering the acquired land for release.

12. Resultantly, in view of the above discussion, finding no ground to interfere in the orders passed by the authorities below, the present writ petitions are hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

18.07.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No