

2024:PHHC:109338-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(122+123)

CWP-17798-2024

Randhawa & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(2)

CWP-17875-2024

Sushila Devi

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(3)

CWP-17628-2024

Sishram @ Shish Pal & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(4)

CWP-18305-2024

Gajraj & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(5)

CWP-18379-2024

Rajawati & another

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(6)

CWP-17766-2024

Daya Ram & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(7)

CWP-19294-2024

Ram Mehar & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

(8)

CWP-19309-2024

Tara Chand Yadav & others

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

Decided on: 21.08.2024

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

Present:- Mr.Sanjay Verma, Advocate for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, DAG, Haryana.

Mr.Ankur Mittal, Advocate
Ms.Kushaldeep K.Manchanda,
Ms.Naina Jindal, Advocates, for respondent-HSIIDC.

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

1. Prayer in the present writ petitions, filed under Article 226 of the Constitution of India, is for issuance of directions to the respondents to release the land of the petitioners in view of Section 101-A of the Land Acquisition Act, 2013 (for short, the 'Act') and to decide the representation (Annexure P-4).

2. The said prayer is based on the plea that the Apex Court in SLP-8723-29 of 2019 titled *Sheo Narayan & others Vs. State of Haryana*, granted liberty to pursue their remedy under Section 101-A of the 2013 Act and to take a decision within 3 months from the receipt of the

3. Firstly, it is to be mentioned that the judgment was passed in CA-1528-2021 titled *HSI IDC Vs. Sheo Narayan & others* and CA-1529-2021 titled *HSI IDC Vs. Karan Singh*, decided on 12.04.2024. The appeals were thus pertaining to the judgment passed on 04.12.2017 by a Co-ordinate Bench which arose out of CWP-27509-2015, CWP-694, 1221, 1266, 2771, 2938 & 5118-2016. The Apex Court allowed the SLPs and set aside the judgment whereby acquisition had been quashed on the ground that the proceedings had lapsed and the writ petitions were dismissed. Only the writ petitioners in the said case were given liberty to file application under Section 101-A of the Act. Relevant part of the judgment reads as under:

“8. Accordingly, the basis of the impugned judgment does not stand the test predicated by the Constitution Bench in the decision referred to above. Hence this appeal ought to succeed.

9. The impugned judgment and order is, therefore, quashed and set aside and the writ petitions for the relief of quashing and declaring acquisition proceedings have lapsed stand dismissed.

10. At this stage, counsel for the private respondent(s) submit that the respondent(s) be permitted to make representation(s) to the Statutory Authority for the limited relief predicated in Section 101-A of the 2013 Act, as applicable to the State of Haryana.

11. If the respondents make such representation within three months from today, we have no manner of doubt that the same would be decided expeditiously by the Statutory/competent authority in accordance with law.

12. We may not be understood to have expressed any opinion either way on the correctness of such remedy or the nature of relief claimed by the respondent(s) vide proposed representation(s). That will have to be decided on the basis of the governing provisions and the law as applicable on the said subject.

13. All contentions available to both sides in that behalf are left open.

14. Needless to observe, if the decision of the competent authority is adverse, the appellants are free to take recourse to appropriate remedy as may be permissible in law. Even that proceeding be decided in accordance with law uninfluenced by the liberty given to the private respondents in terms of this order.

15. In the cases, where the representation(s) are already made, the same will be disposed of within the same time frame i.e., three months from today.

16. The appeals are allowed accordingly.

17. Pending applications shall stand disposed of.”

4. It is also pertinent to notice that the present writ petitions are based on the pleadings that the co-sharers of the writ petitioners had approached this Court and the matter was decided on 04.12.2017 and specific averments were made which read as under:

“6. That the other co-sharers filed civil writ petitions wherein the Hon'ble High Court has passed the following order and released the land of the petitioners vide judgment date 04.12.2017 and the same is reproduced as under:-

"CWP No.27509 of 2015 Karan Singh & others, CWP No- 1266 of 2015 Roshan lal & others, CWP No- 935 of 2015 Bhana & others, CWP No 909 of 2015 Sheo Narayan & others, No-2771 of CWP No- of 2015 Prabhu & others, CWP No-694 of 2015 Shri Krishan & others, CWP No- 5118 of 2015 Shukhdev & others, CWP No-2938 of 2015 Ramniwas & others, CWP No- 1221 of 2015 Mahavir & others, CWP No- 132 of 2015 Rambir & others, CWP No-903 of 2015 Gajraj & others, CWP No- 1489 of 2015 Mahipat & others, CWP No-1228 of 2015 Birbal & others.”

5. Similar averments have also been made in para no.4 of the writ petition. It is not in dispute that the acquisition process under Section 4 of the Land Acquisition Act, 1894 was set in motion way-back on 25.11.2005, Section 6 notification was issued on 24.11.2006 and the award had also been passed on 24.02.2007, which would be clear from their representation. The petitioners, thus, firstly, had never, at any point of

time since 2007, challenged the acquisition proceedings and the land vested in the State under Section 16, as per the settled law. The factum of the Apex Court giving the window to other landowners would be clear from the titles of the cases which the Apex Court was dealing in the 2 set of appeals namely, Sheo Narayan and Karan Singh, which would be clear from the judgment which would show that which of the writ petitioners, the 2 appeals were arising. The said paras of the judgments read as under:

“In Sheo Narayan’s case

3. These appeals take exception to the judgment and order dated 04.12.2017 passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. Nos. 909/2016, 18578/2015, 5732/2016, 903/2016, 1228/2016, 25206/2016, 25159/2014 and 1489/2015.

In Karan Singh’s case

3. These appeals take exception to the judgment and order dated 04.12.2017 passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. No.27509 of 2015, 694/2016, 1221/2016, 1266/2016, 2771/2016, 2938/2016, 5118/2016 and 1988/2016.”

6. It is thus apparent that the petitioners were not party to the earlier round of litigation and cannot seek the window of Section 101-A of the Act as they, at that point of time, after the award had been passed, never objected in any manner to the acquisition. In case they claim that they are in possession, it is obviously on account of their possession being totally unauthorized and they are illegal occupants. The Apex Court in Civil Appeal No.16421 of 2021 titled *Ram Swaroop (Dead) through LRs & another Vs. State of Haryana & others*, decided on 15.11.2021, decided the issue of the provisions of Section 101-A and held that no landowner has a vested right that the land acquired is unviable and non-essential

merely because the landowners continued to be in possession by virtue of any interim order passed by the Court.

7. In the present case, as noticed, it is the categorical case of the petitioners themselves that they are only co-sharers and are claiming to get the benefit as other landowners had challenged the acquisition proceedings. But in the absence of having laid challenge, we do not, in any manner, propound to accept the principle which is now sought to be argued that after a period of 17 years of passing of the Award, the appellants can file a representation on the basis of such right which might have accrued to the persons who were pursuing their remedy since 2015 at an earlier point of time. In Ram Swaroop (supra), it had further been held that the writ petition is only an attempt to continue to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development and utilization of residential, commercial and institutional area, Sector 51 Gurugram and it is only with the purpose to hold on to the land. The relevant part of the observations in Ram Swaroop (supra) read as under:

“8. Section 101-A of 2013 Act (as inserted in State of Haryana) gives liberty to the State Government 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 landowner due to such acquisition. Section 101-A is an enabling provision with the State Government to denotify the land vested with the State if it finds that any public purpose for which land was acquired under the [Land Acquisition Act, 1894](#) becomes unviable or non-essential. In other words, the power is with the State Government on its satisfaction that the land acquired has become unviable or non-essential. No landowner has a vested right to assert that the land acquired has become unviable or non-essential mainly because the landowner

continued to be in possession by virtue of an interim order passed by the High Court.

XXXX XXXX XXXX

11. The claim of the appellants for release of land on account of [Section 24\(2\)](#) had been rejected by the State Government on 12.09.2016. The writ petition against the said order stands dismissed on 12.10.2020. Thus, the present appeal is merely an attempt to continue to be in possession of the land on one pretext or the other so as to defeat the public purpose of acquisition of the land for development and utilization of residential, commercial and institutional area, Sector-51, Gurgaon (now Gurugram). This Court in Raghbir Singh has held that Section 101-A does not give a vested right to the landowner to seek denotification or even that upon denotification, the land in question must return to the erstwhile owners only. The State Government is at liberty to pass such order other than release of land in favour of the landowners.

12. Therefore, the appellants cannot compel an exercise of power by the State Government in their favour as the appellants have no vested right to seek denotification of the land. Consequently, the present appeal is dismissed.”

8. Resultantly, keeping in view the above, we are of the considered opinion that the present petitioners cannot take the benefit of any right which was given to other co-sharers having themselves not opted to challenge the proceedings of acquisition which have long culminated and been finalized whereby even reference petitions had been decided and the proceedings for the acquired land have also been finalized in the appellate proceedings till the Apex Court. No such averment has been made that compensation for the acquired land has not been paid or lifted by the petitioners.

9. In such circumstances, we do not find that the claim to issue a Writ of Mandamus would be legally sustainable more so when the same is

based on the strength of the directions issued by the Apex Court to which

the petitioners were never a party and therefore, can have no legal right, which is the basic underlying principle for issuance of Writ of Mandamus that the State Government must perform its duties. It is also pertinent to notice that neither particulars of the writ petitions which the petitioners have filed and at what serial number they were arrayed and the petitioners in the present writ petitions have been mentioned. The petitioners in the first writ petitions are 9 in number and no effort has been made to correlate or give any details of the writ petitions in the earlier set of writ petitions. In the absence of any material particulars being given, the writ petitions itself is not maintainable.

10. Resultantly, in view of the above observations and in the absence of any legal right, the writ petitions must necessarily fail and the same are accordingly, dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

21.08.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No