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

2024:PHHC:105277-DB

(107) **CWP No.18421 of 2024**
Decided on : 14.08.2024

Vijay Saini ......Petitioner(s)

Versus

State of Haryana and others ......Respondent(s)

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

Present: Mr. Suresh Kumar Kaushik, Advocate &
Mr. Ankit Singla, Advocate for the petitioner (s).

Mr. Ankur Mittal, Addl. AG, Haryana &
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate &
Ms. Kushaldeep K. Manchanda, Advocate
Ms. Naina Jindal, Advocate for respondent No.5-HSVP.

G.S. Sandhawalia, J.(Oral)

1. Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the order dated 31.01.2023 (Annexure P-7), wherein in view of the directions given by the Coordinate Bench, the application under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act') was dismissed. The competent authority came to the conclusion that the land in question was required for the planning of the said sector and as per the report the acquired land was falling under the site of Call

Centre/Shopping Mall and Institutional Plot No.58 & 59 in Sector-20A, Faridabad. Relevant portion of the reasoning given reads as under:-

> "**FACTUAL MATRIX OF THE CASE AS PER REPORTS OF VARIOUS OFFICES:**
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> The reports from DTP(F), LAO(F), E.O. HSVP Faridabad and S.E. HSVP Faridabad were sought for deciding the representation of the petitioner. As per report received from DTP (Faridabad) vide her office memo No.576 dated 29.01.2021 and 4521 dated 28.09.2021, it has been intimated that the land of applicant falls in Khasra and Kulla no.1133 & 1134 in the revenue estate of village Ajronda, Sector 20-A, Faridabad. The layout plan of Sector-20A Faridabad bearing Drg. No. DTP(F) 2256/2003 dated 20.11.2003 has been approved by CA HUDA (T.P. Wing) Panchkula as conveyed vide their memo no. 8482 dated 02.12.2003, however, the planning of the said sector was affected by the land given to DMRC for development of Metro Yard. As per report dated 28.09.2021, the site falls under the site of Call Centre/Shopping Mall and Institutional plot no.58, 59 in Sector 20A Faridabad.
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> As per report received from LAO, Faridabad vide his letter no.4305 dated 31.12.2020 and 2666 dated 08.09.2021, the land of Sh. Vijay Saini falling in sector 20A, B, Ajronda Faridabad. The land acquired under section 4 on 12.06.2000 was 25.56 acres (Ajronda-23.09 acres & Daultabad 2.47 acres) and under section 06 dated 11.06.2001. Objection was filed under Sector 5A. Award no. 04 dated 29.06.1998 for area 17.16 acres (Ajronda 14.75 acres & Daultabad-2.41 acres). Date of possession 29.06.1998 vide Rapat No.650 dated 29.06.1998. Total compensation pald 5980695/-, 26.02%. As per record the applicant is owner of 1/20th part in Khasra No.1133, 1134 (1-12). The compensation amount Rs.62413/- is unpaid.
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> EO, HSVP, Faridabad vide their letter no.553 dated 25.01.2022 Intimated that the Khasra no.1133 (04 Bigha 17 Biswa) and 1134 (0 Bigha and 01 Biswa) of Village Ajronda for Sector-20 has been acquired vide award no.13 dated 29.06.1998. Possession of land has been taken vide Rapat Roznamcha No. 568 dated 29.06.1998.

> Superintending Engineer, HSVP, Faridabad vide their letter No.923 dated 22.03.2021 has intimated that the matter of the above area has already been transferred to Metro Yard and all the development services such as roads, water supply, sewer & SWD related to it have also gone to the Metro Yard."

2. It is not disputed that the acquisition of the land, which is now sought to be released, had been initiated way-back on 12.06.2000 under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act') followed by the requisite notification under Section 6 of the 1894 Act on 11.06.2001, falling in village Arjonda, Tehsil & District Faridabad for the public purpose for development and utilization of the land as residential and commercial area of Sector-20A, Faridabad. Award No.4 was passed on 13.08.2002 and as per the pleadings itself, the amount of the acquired land of the petitioner was fixed as Rs.62,413/-. The averments are that he has not received any compensation, which is not the legal requirement, as per the law laid down in **Indore Development Authority Vs. Manoharlal & others, AIR 2020SC 1496.**

3. It is not disputed that the petitioner had firstly raised challenge to the acquisition proceedings in the year 2015 after 13 years by filing **CWP No.21550 of 2015.** Resultantly, on merits whatever he claimed was shut by the order passed by the Coordinate Bench on 24.08.2020 (Annexure P-5), wherein the only window left open was that the petitioner could make an application under Section 101-A of the 2013 Act. Thus, the prayer for releasing the land on account of not receiving any compensation has already been adjudicated upon by the Coordinate Bench. The matter was never taken to the Apex Court. The representation now filed is to the limited extent that the land of the petitioner is situated in between *abadi* of village Ajrondi and boundary of DMRC and it cannot be utilized by the Government and it is adjoining the Metro Yard.

4. We have already reproduced the reasoning for which the viability and essentiality of the land is being stressed upon in the speaking order and it is also noticed that the development of the Metro Yard has been held up on account of the matter being not finalized. The authority has also observed regarding the compensation not being paid, though the issue stands foreclosed. The impugned order further goes on to show that total compensation for the acquired land which was deposited amounted to Rs.59,80,695/-, had been paid and only a sum of Rs.62,413/- which is due, apparently has not been received and remains unpaid, in case of the petitioner. It is, thus, always open to the petitioner to pick up the said amount, once the said amount remains unpaid and apparently deposited, keeping in view the law laid down by the Constitutional Bench in **Indore Development Authority (supra).**

5. The right as such regarding the claim under Section 101-A of the 2013 Act, firstly came up for consideration before the Apex Court in **'Raghubir Singh and another Vs. State of Haryana and others', (2022) 4 SCC 728.** The said aspect, thereafter, was re-considered by the Apex Court in **Civil Appeal No.16421 of 2021 'Ram Swaroop (dead) through L.Rs & another Vs. State of Haryana and others'** and the Apex Court, thus, clarified that Section 101-A does not give a vested right to the landowner to seek denotification. Thus, the only exercise which was to be done, in view of the earlier orders, was to consider the case of the petitioner, which has been duly done vide the speaking order. It is not for this Court to sit over the opinion of the competent authority, who had to see the effective town planning and whether the land is required, which stood vested in the State once the Award was passed on 13.08.2002. Claim as such is only on the ground that possession continues, which cannot be sustained, since the petitioner

apparently has continued to be in unauthorized occupation, thereafter. The relevant observations 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 nonessential. 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.
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> xxxx xxxx xxxx xxxx xxxx
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> 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 Raghubir 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."

6. In **Civil Appeal No.7634 of 2023 'Nandkishor Babulal Agrawal Vs. The State of Maharshtra & others'** decided on 10.11.2023, challenge had been raised on the ground that the proceedings had lapsed and resultantly, it was held that once the land stood vested with the State authorities, the public purpose of the acquisition can be changed at a later stage and there is no time limit within which the authorities are expected to utilize the acquired land. Relevant portion of the said judgment reads as under:-

> "11. In our considered view, the High Court would be extremely circumspect to issue a mandamus in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution, directing to release a lawfully acquired land only on the premise that such land has not been utilized for the public purpose for which it was acquired. There is no gainsaying that once the land vests in the State or its authorities, the 'public purpose' of its acquisition can be changed at a later stage. All that is required is that such land should be utilized for public purposes only. In fact, there cannot be a time limit within which the authorities are expected to utilize the acquired land. The Municipalities or such other agencies are expected to have long-term plans for regulated development of urban areas and for that purpose, certain pockets of land are required to be kept vacant as reserve pool to cater the future needs."

7. Rather, observations in the earlier decision of the Apex Court would be directly applicable in **Leela Wanti and others vs. State of Haryana and others, (2012) 1 SCC 66** wherein also, Para No. 493 of the Land Administration Manual and Standing Order No.28 was referred to. It was also noticed that apart from the gap of three decades between the issuance of the notifications in the year 1976 and the filing of the writ petition in 2007 would also invoke doctrine of laches for negating the challenge to the acquisition of land. Accordingly, it was held that the State cannot be debarred from using the acquired land for any other public purpose and such an interpretation would be

contrary to the language of Section 16 of the Act. Relevant portion of **Leela Wanti case (supra)** reads thus:

> "16. A reading of the above reproduced Paragraph of the Land Administration Manual nowhere suggests that the State Government is duty-bound to restore the acquired land to the owners after the purpose of acquisition is accomplished. It merely mentions that as a matter of grace the Government is usually willing to restore agricultural and pastoral land to the owners on their refunding the amount of compensation. If Paragraph 493 is read in the manner suggested by the learned counsel for the appellants then in all the cases the acquired land will have to be returned to the owners irrespective of the time gap between the date of acquisition and the date on which the purpose of acquisition specified in Section 4 is achieved and the Government will not be free to use the acquired land for any other public purpose. Such an interpretation would also be contrary to the language of Section 16 of the Act, in terms of which the acquired land vests in the State Government free from all encumbrances and the law laid down by this Court that lands acquired for a particular public purpose can be utilised for any other public purpose."

8. In such circumstances, we do not feel that it is a fit case to exercise the extra-ordinary writ jurisdiction. Accordingly, the present writ petition stands dismissed in *limine.*

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

14.08.2024
Naveen

Whether speaking/reasoned : Yes
Whether Reportable : No