



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.22043 of 2024
Date of Decision: 04.09.2024

Raj Pati & Others
...Petitioners
Versus
State of Haryana & Others
...Respondents

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

Present:- Mr. Narender Pal Bhardwaj, Advocate,
for the petitioners.

Mr. Ankur Mittal, Additional AG, Haryana with
Mr. Saurabh Mago, DAG, Haryana.

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G.S. SANDHAWALIA J. (Oral)

The prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of mandamus directing the respondents to de-notify and release the plot/land of the petitioners in view of Section 101-A of The Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement (Haryana Amendment) Act, 2017 (for brevity ‘the Act of 2017). Prayer is also made on the ground of parity that in the adjacent plot the acquisition proceedings were held to be lapsed as held in ‘*M/s Sharma Agro Industries vs. State of Haryana & Ors.*’ 2015 (2) SCC (Civil) 287 (Annexure P-7).

2. The land in question was sought to be acquired by the State vide notification under Section 4 of the Land Acquisition Act, 1894 (for



short, 'the Act of 1894') dated 27.11.2002. The notification under Section 6 of the Act of 1894 was issued on 14.11.2003. Apparently, the Award under Section 11 of the Act of 1894 was also passed on 30.05.2005 whereby total land measuring 103 Bighas 468 Biswas (including the land of the petitioners measuring 0.7 Biswas compromised in Khewat No.1135 Khatoni No.1168 Khasra No.4001/2) was sought to be acquired for the construction and development of Industrial Estate, Karnal and laying of sewerage and storm water drainage in Sector 3, Karnal. The petitioners are stated to still continuing in possession of the land measuring 0.7 biswas, despite the fact that the Award was passed 19 years back. In such circumstances, the claim under Section 101-A of the Act of 2017, has been made.

3. We have perused the site-plan (Annexure P-6/A) and the photographs (Annexure P-6) which would go on to show that the land is being utilized for commercial purposes by running a service station and by raising temporary structures in the form of a car washing centre and shed. The land is stated to be situated on National Highway, GT Road, Karnal and surrounded by commercial properties. In such circumstances, it is apparent that the petitioners seek to challenge the acquisition notification on account of non-viability and non-essentiality of the land. The said claim could not be sustained as the petitioners are in unauthorized occupation of the land for the last 19 years and as such, had never raised challenge to the acquisition proceedings.

4. Reliance placed upon the judgement of the Apex Court in ***M/s Sharma Agro Industries (supra)*** by learned counsel for the petitioners would not be of much help to the petitioners as a perusal of the said



judgment would go on to show that in similar circumstances, in the acquisition proceedings which were subject matter of challenge before the Apex Court, the land-owners had agitated for their grievances and filed CWPs in the year 2004 well in time. The petitioners herein cannot agitate for the grievances after the notification under Section 6 of the Act of 1894 having been issued in the year 2003 and therefore, no relief can be claimed by the petitioners as such. The petitioners have neither initiated any objections under Section 5-A of the Act of 1894 nor have placed on record proof of construction or sanction construction before the notification under Section 4 of the Act of 1894 was issued.

5. Learned counsel for the State submits that in '**Raghubir Singh and another vs. State of Haryana and others**', (2022) 4 SCC 728 it was held by the Apex Court that the issue of non-viability or non-essentiality of the land is to be decided by the Government as such and that in case, it chooses to de-notify certain land, it is for the State to decide as such. In such circumstances, the claim, at this belated stage, is not liable to be entertained. Even the representation (Annexure P-4) was moved by the petitioners for release of their land on parity basis in the year 2024, much after the judgment dated 06.03.2020 in **Indore Development Authority vs. Manoharlal and others, (2020) 8 SCC 129**. The said aspect, thereafter, was re-considered by the Apex Court in **Civil Appeal No.16421 of 2021 'Ram Swaroop (dead) through LRs & 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. It is not for this Court to sit over the opinion of the competent authority, who had to ensure 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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*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 Maharashtra & 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. We do not find any grounds to interfere with the impugned notifications for acquisition of land. As pointed out by the State Counsel, the acquisition proceedings having not acted upon by the State, the claim for release of land now cannot be re-agitated at this point of time as the Award had already been passed and the land having vested in the State under Section 16 of the Act of 1894.

9. With the above-said observations, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

September 04, 2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No