

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

2024:PHHC:097872-DB



(105)

CWP-25446-2021

Suresh Chander @ Suresh Chand & others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

(2)

CWP No.6365 of 2022

Suchita

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

(3)

CWP No.13336 of 2022

Satish and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

**Decided on: 01.08.2024**

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

Present:- Mr. B.R. Rana, Senior Advocate with  
Mr. Vijender Singh Ahlawat, Advocate and  
Mr. Rahul Dahiya, Advocate for the petitioner (s)  
(in CWP-25446-2021).

Mr. Vikram Singh, Advocate for the petitioner(s)  
(in CWP-6365 & 13336-2022) and  
for respondent Nos.25 & 27 (in CWP-25446-2021).

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

Mr. Ankur Mittal, Advocate and  
Ms. Kushaldeep K. Manchanda, Advocate for respondent-HSVP.

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

The present judgment shall dispose of three writ petitions i.e. CWP No.25446 of 2021 and CWP Nos.6365 & 13336 of 2022, wherein the petitioners who are co-sharers in the land measuring 15 kanals 18 marlas seek quashing of the notification dated 23.08.2007 issued under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act'), which was followed up by the notification dated 21.08.2008 issued under Section 6 of the said Act and the subsequent Award dated 19.08.2010.

2. Challenge has also been raised to various speaking orders passed by the authorities below, as the landowners had filed writ petitions before this Court and in pursuance of the directions issued by this Court authorities have passed orders deciding their representations on 26.04.2018 (Annexure P-10) [in CWP-25446-2021], 05.05.2017 (Annexure P-8) [in CWP-6365-2022] and 31.03.2016 (Annexure P-9) [in CWP-13336-2022].

**Facts of CWP No.25446 of 2021**

3. The reason which weighed with the petitioners to approach this Court was solely on the basis that three co-sharers had earlier in **CWP No.1173 of 2009 'Ajay Dewan & others Vs. State of Haryana & others'** decided on 16.09.2013 approached this Court before the passing of the Award that they were exclusive owner of 15 kanals 18 marlas of land situated in the revenue estate of Safidon, Tehsil Safidon, District Jind, though they were only share-holders to their respective shares. The Coordinate Bench at that point of time on the statement made by counsel for the State had come to the conclusion that the land/property surrounding the petitioners' land had already been released from acquisition and no public purpose can be achieved by retaining the petitioners' land and, therefore, the State was willing to

release the said land. It was noticed that the land of the said petitioners was shown in yellow colour and surrounding land was shown in green colour and same had been released from acquisition. It was also noticed that the petitioners land was acquired for the purpose of 45 meter wide sector road, which now cannot be constructed due to the release of the adjoining land. In such circumstances, the writ petition was allowed and the notification qua the land of the petitioners was set aside. The land in question is falling in Khewat No.1631/1556, Khatoni No.1941, Khasra No.68/1 (5-2), 2/1 (2-16), 69/5/1 (8-0), situated in village Safidon, Tehsil Safidon, District Jind as per the Jamabandi for the year 2004-2005.

4. It is pertinent to notice that it is not disputed that earlier the share of the petitioners and the co-owners was only 7 kanals 5 marlas and the authorities accordingly released that land in compliance of the said order of the Division Bench. Bolstered by the said fact the first application was filed on 31.07.2014(Annexure P-8) whereby Suresh Chander, the petitioner in CWP No.25446 of 2021 took the plea that 3 kanals 19 marlas of land as per his share be removed from acquisition, keeping in view the said decision in favour of the co-owner. The said application was filed after a period of 4 years and after the land had been vested with the State, since the award came to be passed on 19.08.2010. Since the State did not act upon the said claim as such, CWP No.2647 of 2017 was filed, wherein directions were issued to decide the said representation dated 31.07.2014. The authorities rejected the same vide speaking order dated 26.04.2018(Annexure P-10) while noting that 7 kanals 5 marlas of land had been released, in view of the orders of this Court. The land possessed by the petitioner had not been released, as the same was lying vacant without any construction and the Committee was not in a position to

decide where the land of the petitioner falls and no recommendation regarding the release of the land of the petitioner could be made until he gets partition of his land and obtains specific khasra numbers. Another writ petition bearing CWP No.1893 of 2021 was then filed by petitioner No.1 Suresh Chander @ Suresh Chand challenging the said order, which was dismissed on 28.01.2021 (Annexure P-11) by observing as under:-

“After arguing for sometime, learned counsel for the petitioner seeks permission to withdraw the present writ petition to either get the land partitioned or to get the other co-sharers on board for return of the land.

Allowed as prayer for.

Dismissed as withdrawn.

5. It is in such circumstances, the present writ petition bearing CWP No.25446 of 2021 has been filed by Suresh Chander @ Suresh Chand alongwith three other co-sharers on the basis that an earlier partition dated 18.02.2002 (Annexure P-12) had been executed, which was a private partition between the parties but no entry was made in the revenue record. Apparently the same if accepted was executed before the first writ petition was dismissed on 28.01.2021 and even prior to the issuance of the Section 4 notification on 23.08.2007. Thus, for this reason also, we are of the considered opinion that the second writ petition on the same cause of action is not maintainable, specially more so the writ petition has been filedby adding other three petitioners, who had never even bothered at any point of time to agitate for their grievances after the award was passed in the year 2010 and now have jumped on the bandwagon for the first time in the year 2021.

**Facts of CWP No.6365 of 2022,**

6. The petitioner claims to be co-sharer in the said land on the basis of a sale deed dated 15.09.2004 (Annexure P-10). Firstly a perusal of the said sale deed would go on to show that it was for a joint land, which was not partitioned. The vendors sold land measuring 401 square yards out of the joint land of 15 kanals 18 marlas by giving the boundaries as such, though the land was not partitioned. On the strength of the said purchase, after a period of 10 years, the petitioner Suchita filed an application dated 15.07.2014 (Annexure P-5) for release of the land in similar circumstances like the petitioner Suresh Chander had filed. Resultantly, she had filed CWP No.25225 of 2014 by giving reference of **Ajay Dewan (supra)**, wherein directions were issued to decide the representation. Thereafter, the said application was rejected vide speaking order dated 05.05.2017 (Annexure P-8), wherein it was noticed that there is no record of ownership, since the petitioner had not bothered to get the land mutated in her favour and resultantly, the representation was rejected.

7. The petitioner, thereafter, started her battle for getting the mutation entry done and approached this Court by filing CWP No.12940 of 2018 (Annexure R-1) wherein the picture again projected before the learned Single Judge was that she was entitled for mutation, on the basis of the said sale deed and the land which had been released was 15 kanals 18 marlas, whereas the factual aspect was that only 7 kanals 5 marlas had been released regarding the other co-owners to the extent of their share only. The writ petition was allowed on 26.07.2022 (Annexure R-2) and the State was directed to enter the mutation in favour of the petitioner, on the basis of the said sale deed dated 15.09.2004.

8. Resultantly, the petitioner then filed the present writ petition challenging the order dated 05.05.2017 (Annexure P-8) only in the year 2022

and, therefore, now seeks to demolish the findings recorded by the authorities that she was never an owner in the revenue record, therefore, no objection can be taken to the reasoning given in the order dated 05.05.2017. The fact remains that mutation had not been entered in the revenue record after the sale deed and at the time of acquisition and, accordingly, the authorities were well justified to dismiss the representation by rejecting the claim for release of the land. We also do not find any tangible reason to find out any fault in the findings recorded by the authorities, merely because mutation has been ordered by misrepresenting before the Single Judge that all 15 kanals 18 marlas had been released. The delay aspect is also to be noticed that how after the land had been vested with the State in the year 2010, the landowners are only seeking to enforce their right regarding the release of the land, on the basis of alleged discrimination, which we do not find. The petitioners in our considered opinion have only a share or right along with their co-owners in the land which stands released in accordance with law, as had already been held by the Coordinate Bench by seeking the right of partition vide order dated 28.01.2021.

**Facts of CWP No.13336 of 2022**

9. In the present petition, release is sought of land measuring 750 square yards, again on the basis of request which was made on 31.07.2014 (Annexure P-4). No action being taken on the said representation, CWP No.7140 of 2015 had been filed, wherein directions were issued to decide the representation on 20.04.2015 (Annexure P-8). Eventually, the speaking order had been passed on 31.03.2016 (Annexure P-9), wherein it has been mentioned that factory was in existence and land of the petitioners affect 45 meter wide sector road as per approved demarcation plan of Sector-9 Safidon

bearing Drawing No.DTP(J)/1259/2013 dated 28.03.2013. It has specifically been mentioned that on account of the earlier release of land measuring 7 kanals 5 marlas, the alignment of sector road at this point of time was not feasible and remaining land can only be utilized after amendment in the master plan and if it is released in patches as shown on demarcation plan, it cannot be utilized for HUDA and, therefore, the land is extremely valuable asset for the development of sector particularly and progress of urbanization in general.

10. It is pertinent to notice that the land was acquired for the purpose of development of residential and commercial Sector-7 Safidon, Jind, in the area of village Singpura, Hadbast No.53. We have also perused the site plan appended by the State as Annexure R-1, which would go on to show that the land which was released is in a separate compact portion and if the release of the balance land is done, it would adversely affect the planned development. Thus, purpose of the development would be thrown out of the window and public purpose would be affected. The claim of the petitioners was based on the fact that similar benefit had been granted to the co-sharers and they were only waiting in the wings. Only when the order was passed in their case, they had approached this Court at a subsequent point of time and, therefore, cannot as such avail the same benefit, as the earlier co-sharers had approached this Court in the year 2009 before the passing of the Award and, thus, they cannot also claim parity on that account.

11. In view of the cumulative discussion, we are of the considered opinion that the writ petitions being bereft of any merit are liable to be dismissed. Needless to say that we have not observed anything on the rights as such of the petitioners regarding their claim against their co-sharers, who

have got the land released, which they can press in the independent proceedings for the purposes of partition of their shares.

12.           The writ petitions are, accordingly, dismissed.

**(G.S. SANDHAWALIA)**  
**JUDGE**

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

**01.08.2024**  
*Naveen*

|                             |     |
|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |