

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

2024.PHHC.119375-DB



(117)

**CWP No.22137 of 2024
Decided on :11.09.2024**

Baljeet Singh and others

.....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. Shailendra Jain, Senior Advocate with
Ms. Richa Sharma, Advocate for the petitioners.

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

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate&
Mr. Siddhanth Arora, Advocate for the respondent-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 acquisition of the land, for which an Award was passed on 08.11.2005 (Annexure P-21) and for declaration of acquisition proceedings as nonest in the eyes of law and to issue release letters qua land underneath residential structures with adjoining area of the total plot from the acquisition, which was done way-back on 13.11.2002(Annexure P-12) under Section 4 of the Land Acquisition Act, 1894 (for short '1894 Act'), which was followed up by Section 6 notification issued on 10.11.2003 (Annexure P-18). Additional prayer has been made to recover the compensation paid by the Land Acquisition Officer from respondent No.6 qua the said land of the petitioner.

2. It is pertinent to notice that no challenge has been raised to the notice issued under Section 18(1)(b) of the Haryana Shehri Vikas Pradhikaran Act, 1977 (for short '1977 Act') dated 06.10.2022 (Annexure P-27), in which it has been noticed that mutation of the said land was entered way-back in favour of the erstwhile Haryana Urban Development Authority (HUDA) now Haryana Shehri Vikas Pradhikaran (HSVP) on 13.06.2014. The said notice talks about the encroachment upon the land falling in Sector 3 to 5, Hisar(Sector-1 Part-II), which is in the ownership of the HSVP and the unauthorized structure, as per Section 18(1)(b) of the 1977 Act.

3. In the writ petition, it has been pleaded that respondent No.6 was a Registered Co-operative Society and had purchased the land falling in Khasra No.173/4/2, 6, 174/10/2, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 173/4/1, 5/1, 7 and 173/15 situated at Mill Gate, Hisar, Hadbast No.146, Tehsil & District Hisar. The residential layout of the plots on the said land had been done and the petitioners were inducted as members and allotted plots vide separate allotment of possession. Petitioner No.1 is stated to be successor-in-interest of the original allottee and petitioner No.3 is stated to be the subsequent allottee, after releasing of the land of the plot from acquisition. There is nothing on record to show that the said land was duly released.

4. Rather, the perusal of the record which has been attached, would go on to show that the Joint Site Inspection Committee way-back on 02.09.2003 and 11.09.2003 under the then Chairmanship of the Administration, HUDA had noticed that there were 136 structures at the time of survey and, accordingly, divided the structures into four categories from A to D and recommended release of A & B class category, whereas it had not been done for Class C & D. This fact would further be clear from Khasra No.173,whereby Category C as such had been recommended for notification

under Section 6 of the 1894 Act. It is but obvious that Section 6 notification was thereafter issued on 10.11.2003 (Annexure P-18) and the land of the petitioners as such was subject matter of acquisition for the purpose of residential and commercial for Sectors 3 to 5, Hisar. The petitioners never chose to challenge the said Section 6 notification or the subsequent Award, which came to be passed on 08.11.2005 (Annexure P-21). From the pleadings, it is also apparent that the Society received the compensation amount, as the claim is now to recover the compensation amount from respondent No.6. The possession had then been taken, which would be clear from the fact that the mutation was entered on 13.06.2014 in favour of the HSVP.

5. The petitioners, thereafter, started filing representations that the land had been included in the Award and the matter needed to be investigated, as the large sums of money had been scammed in connivance with the Land Acquisition Office, Hisar and the officials of the respondent No.6-Society and mutation had only been entered and thus, prayed that the Award should be amended. It is in such circumstances, the present writ petition has been filed.

6. The notice issued under Section 18(1)(b) of the 1977 Act dated 06.10.2022 (Annexure P-27) would go on to show that the petitioners have been treated as encroachers on the land and show cause notice was issued to them. A perusal of provision of Section 18(1) would go on to show that there is a power to evict the person from the land of the HSVP in a summary manner and under Section 18 (1) (b) if the person is in unauthorized occupation of any land or building constructing on the said land, the procedure has been prescribed.

7. We are of the considered opinion that firstly the issue of delay and laches will hit the petitioners outrightly, as after two decades they cannot be permitted to challenge the Award, since the land had vested with the

respondent No.6-Society under Section 16 of the 1894 Act. The compensation admittedly having been received by the private respondent-Society for the land, since the petitioners apparently did not even have any registered sale deeds in their favour. In such circumstances, if the petitioners were not the owners of the land, they have no right regarding the constructions raised.

8. Reliance upon the issue of categorization of land, which has been put forth by the Senior Counsel by placing reliance upon the judgment of the Apex Court in **Sube Singh Vs. State of Haryana, (2001) 7 SCC 545** and the judgment of the learned Single Judge of this Court passed in **Ram Kishan Gupta and others Vs. State of Haryana and another, 2010 (3) PLR 716** would not be of much help. A perusal of the judgment passed in the case of **Sube Singh (supra)** would go on to show that the acquisition proceedings had been initiated in the year 1995 and the writ petitions were filed thereafter in the year 1998 challenging the acquisition proceedings. It was in such circumstances, the Apex Court came to the conclusion regarding the issue of classification and held in favour of the landowners or the persons. As noticed herein firstly there is issue of delay, as the challenge had been raised to the acquisition proceedings which had been initiated in the year 2002, which cannot be overlooked, in view of the law laid down by the Apex Court in **Municipal Corporation of Greater Bombay Vs. The Industrial Development & Investment Company Pvt. Ltd., 1996 (11) SCC 501; Jasveer Singh & others Vs. State of U.P. & another, 2017 (6) SCC 787 and Government of A.P. & others Vs. Kollutla Obi Reddy & others, AIR 2006 SC 642.**

9. Secondly, the factum the petitioners have apparently conceded that they are not the owners of the land and have sought the prayer for

recovery of the amount paid to the respondent-Society from whom they allegedly derive title and, therefore, cannot seek the release of the land.

10. In such circumstances, we are of the considered opinion that the petitioners may continue to have been in possession, but are now unauthorized occupants, which would be clear from the notice issued under Section 18(1)(b) of the 1977 Act and, therefore, this Court is loath to call upon the State and to further extend the benefit of unauthorized occupation to the petitioners. Resultantly, there is no merit in the present writ petition and same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

11.09.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No