

109

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Date of Decision : 16.04.2024

1. CWP-31901-2019 (O & M)

M/S OMAXE CHANDIGARH EXTENSION DEVELOPERS PVT.
LIMITEDPetitioner

Versus

STATE OF PUNJAB AND OTHERSRespondents

2. CWP-20690-2023

M/S OMAXE NEW CHANDIGARH DEVELOPERS PVT. LIMITED
.....Petitioner

Versus

STATE OF PUNJAB AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present : Mr. Akshay Bhan, Senior Advocate with
Mr. Aman Bansal, Advocate and
Mr. Abdul Sattar, Advocate
for the petitioner (in both the cases).

Mr. Amit Kumar Goyal, Addl. A.G., Punjab.

Mr. Viren Sibal, Advocate
for respondents No. 2 to 5 (in CWP-31901-2019).

Mr. Gaurav Chopra, Senior Advocate with
Ms. Sanjana, Advocate
for respondent No. 7 (in CWP-31901-2019) and
for respondent No. 10 (in CWP-20690-2023).

SURESHWAR THAKUR, J. (Oral)

CM-15470-2023 in CWP-31901-2019

1. The application is allowed subject to all just exceptions
and the rejoinder to the reply filed by respondents No. 2 and 3 as well
as Annexures P-25 to P-27 are taken on record.

Main cases.

2. Since both the writ petition(s) (supra), involve common questions of law, thus, they are amenable to be decided through a common verdict.

3. The controversial khasra which is involved in the instant *lis* is khasra No. 4//24/3. Though, it is conceded by all the counsels appearing today before this Court, that the said khasra number, was not acquired but they consensually submit before this Court that it is a part of a sectoral road, wherebys the said facility is purveyed to the house owners concerned.

4. The orally made writ prayer relates to a direction being passed upon the acquiring authority concerned, to thus launch acquisition proceedings in respect of the said khasra number. Furthermore, a prayer is also made that the acquisition proceedings to be launched in respect of the said khasra numbers be directed to be launched under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short called as the 'Act of 2013').

5. The learned counsels appearing for the respondents however contest the according of above relief to the present petitioner. They submit that the present petitioner be rather directed to transfer right, title and interest which it holds over the said khasra number rather to the acquiring authority and that too without just, fair and appropriate compensation becoming determined under the relevant legislative enactment.

6. In making the said submission, the learned counsel

appearing for the respondents submit, that since the present petitioner is a beneficiary of monetizable FAR, thereby on monetization being made of the FAR accorded to the present petitioner, thereby the present petitioner would become adequately recompensed, as such, there would be no expropriation of the land of the present petitioner which is comprised in khasra No. 4//24/3.

7. In the above regard, the learned counsel appearing for the Chief Town Planner, Punjab, has placed on record a communication which details the above factum, and, the said communication remains uncontroverted by the learned counsel for the present petitioner.

8. After making a profound deliberation(s) with the counsels appearing today before this Court, this Court has been able to elicit consent from all the appearing counsels, to the extent, that the monetizable value of the FAR, as granted to the present petitioner, be determined by a Government valuer. They also consensually submit that the determination of the monetizable value of the FAR, as granted to the present petitioner, by the Town and Country Planning Department, thus to be made by the Government valuer rather be made in terms of the present monetizable value of the FAR.

9. Be that as it may, since it is also consensually submitted today before this Court by the counsels appearing for all the litigants that the sectoral road constructed over khasra No. 4//24/3, thus is not only meant for the benefit of the house owners residing in the colony constructed by the present petitioner, but is also utilized as such for the benefit of the house owners residing in a colony constructed by co-respondent No. 7 (in CWP-31901-2019).

10. In consequence, irrespective of the present monetizable value of the said FAR granted qua the contentious khasra number, hence being made by the Government valuer concerned, thus the acquisition of the said khasra number is also required to be directed to be made.

11. Therefore, this Court directs the acquiring authority to forthwith launch acquisition proceedings for thereby subjecting the said khasra number to acquisition. The said acquisition proceedings be launched under the 'Act of 2013'.

12. Nonetheless, it is clarified that the Collector in making an award under the 'Act of 2013', shall bear in mind the monetizable value, as made by the Government valuer concerned qua the FAR accorded to the present petitioner.

13. For facilitating the promptest completion of the acquisition proceedings, especially when the Collector under the 'Act of 2013', is to bear in mind the monetizable value, as made of the FAR qua the khasra number (supra), by the Government valuer, thereby it is directed the said valuation be made within three weeks hereafter.

14. It is expected that no protest against the instant valuation shall be made by any of the contesting litigants.

15. The said valuation be forthwith purveyed to the acquiring authority and resultantly the Collector concerned, shall in proceeding to assess compensation in terms of the 'Act of 2013', thus bear in mind the assessment by the Government valuer vis-a-vis the monetizable value qua the FAR concerned, as accorded qua the khasra no (supra). In case the compensation assessed by him is higher in sums of money, than the

monetizable value assessed by the Government valuer concerned, vis-a-vis the apposite FAR accorded to the present petitioner, thereby the said excess or surplus sums of money, shall be tendered as compensation to the present petitioner, in respect of the acquisition as made qua khasra No.4//24/3, which is again consensually stated before this Court by all the counsels concerned, to be utilized also for the benefit of the house owners concerned, who are residing in the colony constructed by co-respondent No. 7.

16. Disposed of alongwith all pending application(s), if any.
17. However, liberty reserved to all concerned to agitate any other dispute before the Civil Court of competent jurisdiction.

(SURESHWAR THAKUR)

JUDGE

16.04.2024

kavneet singh

(AMARJOT BHATTI)

JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No