



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

CWP-29496-2022 (O&M)

Reserved on: 23.04.2024

Date of Decision : May 21, 2024

R.N. AGGARWAL

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Present : Mr. Varun Aryan Sharma, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. P.P. Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner prays for the making of a writ in the nature of *Certiorari*, thus for quashing of the notification dated 03.03.2003, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), (Annexure P-4), and, also prays for the quashing of notification dated 02.03.2004 (Annexure P-5), notification whereof became issued under Section 6 of the Act of 1894. Moreover, the petitioner also seeks the quashing of award dated 29.12.2005 (Annexure P-6), as became passed under Section 11 of the Act of 1894.



2. The brief facts of the case are that the petitioner is owner and in possession of land comprised in Khewat/Khasra No.20//20/2(2-12) measuring 2 Kanal 12 Marlas, situated in village Tigra, District Gurugram. The said land was purchased by the petitioner vide registered sale deed dated 16.08.1995, and, the ownership of the petitioner is reflected in the jamabandis for the years 1996-97, 2001-02, 2016-17, and, 2021-22.

3. On dated 03.03.2003, a notification under Section 4 of the Act (Annexure P-4) was issued for public purpose namely Development and Utilization of land for residential and commercial Sectors 49-50, Gurugram, in the area of villages Badshahpur, Ghasola, Adampur, Tigra and Tikri, Tehsil and District Gurugram. Subsequently, notification dated 02.03.2004 (Annexure P-5) was issued under Section 6 of the Act of 1894.

4. That earlier the petitioner approached this Court through his filing CWP-8200-2015, thus claiming the relief of lapsing under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the "Act of 2013"). The said petition became dismissed vide order dated 30.04.2015, but with liberty to file a detailed and comprehensive representation before the appropriate authority. Pursuant thereto, the petitioner moved representation dated 09.06.2015 before the appropriate authority. The said representation became also rejected vide speaking order dated 7.12.2016, passed by respondent No.2.

5. The petitioner again approached this Court through his filing CWP-24851-2022. The said writ petition also became dismissed as



better particulars. Therefore, the present petitioner filed the instant writ petition before this Court.

6. Respondents No.2 and 5 have filed their written statement. Apart from stating therein the genesis of the case, it has been echoed therein, that the possession of the land in question was duly taken by the respondents concerned, vide Rapat Roznamcha No.216 dated 29.12.2005. It is further stated therein, that the compensation amount has been duly tendered at the time of announcement of award, however, the petitioner has chosen not to receive the same. The relevant paragraph of speaking order dated 07.12.2016 (Annexure P-8), becomes extracted hereinafter.

“(1) The petitioner's land was vacant as per the structure plate of survey conducted at the time of section-4.

(2) Physical possession of the land has been taken by HUDA which is corroborated by the Rapat Roznamcha No. 216 dated 29.12.2005. The Rapat Roznamcha is substantive piece of evidence to prove change physical possession, written by an independent Authority i.e. LAO. Further, it is worth mentioning that due to LARR Act there has been a spurt of such cases where HUDA land had been encroached upon with mala-fide intention just to take benefit of Section 24(2) of LARR Act. Hence the present occupation is unauthorized, illegal and has no meaning because it is of recent origin and not a continuous possession. Due to status quo granted by the Hon'ble court, action could not be taken against these tress-passers and encroachers on the HUDA land.

Though the petitioner has mentioned that he is in possession of the disputed land but he has not submitted any evidence to prove his claim. Even at the time of his personal hearing he did not submit any evidence thus his claim cannot be accepted.



(3) Land in question is to be utilized for the planned development sector-50 Gurugram i.e. for the purpose of 2 no's of 10 mtr. wide internal roads, 2 no's plots of 14 Marla category and 3 no's plots of 8 Marla category.

Therefore keeping the above factors in view the committee did not recommend considering the request of the petitioners u/s-24(2) of RFCT LARR Act, 2013. ”

7. The above made paragraphs in the speaking order (supra), thus beget compliance with the duo of parameters as set forth in the verdict of the Hon'ble Apex Court rendered in “Indore Development Authority V. Manoharlal and others” (2020) 8 SCC 129, inasmuch as qua a) Rapat possession being assumed of the petition lands thus through rapat No.216 of 29.12.2005, and qua b) The determined compensation amount rather becoming made available to the land-losers concerned.

8. Be that as it may, since it has been stated in the said order that the subject lands are an integral component of the layout plan-cum-demarcation plan relating to development of residential, commercial sector 49-50, Gurugram, besides with the subject lands comprised in Khewat/Khasra No.20//20/2(2-12), affecting a 10 meters wide road, and, 2 plots i.e. Plot No.452-P & 453-P, measuring 14 marlas each, besides 04 plots i.e. Plot Nos. 50P, 51, 52 and 53 measuring 8 marla each.

9. Conspicuously, thus it has been stated therein, that the therebys to be affected the relevant public purpose(s) at the above sites, thus would become direly jeopardized, if the subject lands are released from acquisition. If so, this Court does not deem it fit, and, appropriate to make any tinkering with the layout plan(s) which are drawn by the Engineering Cell of the

Acquiring Authority concerned.

10. Resultantly, this Court does not also deem it fit, and, appropriate to order for the subject lands being released from acquisition, hence the instant petition stands dismissed.

(SURESHWAR THAKUR)
JUDGE

21.05.2024

(LALIT BATRA)
JUDGE

Ithlesh

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No