



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

118

CWP-29920-2024

Date of Decision: 06.11.2024

MINDER AND ORS

.....Petitioners

Vs.

STATE OF HARYANA AND ORS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Suresh Kumar Kaushik, Advocate for the petitioners.

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

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep K. Manchanda, Advocate
for respondent No.3.

G.S. SANDHAWALIA, J. (ORAL)

Challenge in the present writ petition is for quashing of the speaking order dated 24.02.2023 (Annexure P-3) whereby claim of the petitioners for returning/releasing of their un-utilized acquired land has been rejected solely on the ground of the report of the Zonal Committee. Resultantly, it is to be noticed that it is the specific case as such of the petitioners that neither the acquired land has been utilized nor the petitioners have been given compensation for their acquired land which is stated to be 31 kanal 19 marla, situated within the Revenue State of Village Tigra, Tehsil & District Gurugram. The details are mentioned in para No.2 of the petition.

2. Notification in question issued long back on 12.12.2008 under Section 4 of the Land Acquisition Act, 1894 [for short 'the Act'] followed by



notification issued under Section 6 of the Act on 11.12.2009 and thereafter the award was passed on 23.11.2011 of 19.70 acres for the utilization of the land for development and utilization of commercial belt along with SPR in Sectors 62, 65 & 66 of Village Tigra, Gurugram. It is the own case of the petitioners that their Writ Petition was as such disposed of in terms of the order passed in CWP No.11911 of 2011 titled as *M/s Vishnu Apartments Pvt. Ltd. and others Vs. State of Haryana and others* on 19.10.2015 (Annexure P2) and resultantly speaking order has now been passed rejecting the claim. The Coordinate Bench had noticed that the present petitioners also had applied for licence but their application was rejected. It is important to mention that no where in the present writ petition, it is mentioned that the petitioners had applied for the licence. Nothing has been placed on record to show that the licence was ever rejected. In CWP-7218-2020 titled *Satpal and others Vs. State of Haryana* and others decided on 21.10.2024, we have also noticed the factum that writ petition has been filed praying that matter should be decided in terms of *M/s Vishnu Apartments Pvt. Ltd. And others case (Supra)* for release of property. In such circumstances, we have held that the award in question was passed way-back on 23.11.2011 and only on account of some other builder, who had applied for a licence and having got some benefit, projection was given that the petitioners are also similarly placed and the matter has been kept alive. The relevant part reads as under:-

5. Firstly, it is to be noticed that the petitioner in the said case approached this Court immediately after 23.11.2011 when the award had been passed. The petitioners herein did not seek any such legal redressal and accepted the acquisition proceedings. It is settled principle that if there is delay after the award is passed, then the Court is not to interfere in the



acquisition proceedings. The first foray to keep the controversy alive was by way of filing CWP-13441-2014 which was disposed of in terms of decision in CWP-11-2011 titled *Prem Singh & others Vs. State of Haryana & others*. The said case had been disposed of in terms of M/s Vishnu Apartments Pvt. Ltd. (supra). A perusal of the same would go on to show that the issue therein was regarding the rejection of the application for grant of licence and which had been rejected on the ground that 50% of the land was reserved for Government entity and 50% was released to private entities. It is conceded position that the petitioners had never applied for licence and we do not see as to in what context and how they had sought consideration in the same terms and therefore, got an order to keep the controversy alive.

6. The petitioners, thereafter, filed Execution Application No.5 of 2018 whereby the Division Bench noticed that the order could not be executed as no effective relief was granted to them and they should file a writ petition. The order dated 20.03.2018 reads as under:

“The writ petition filed by the applicant-petitioners was disposed of as per their own statement being covered by the earlier decision of this Court dated 9.10.2015 passed in CWP No.11 of 2011(Prem Singh and others versus State of Haryana and others).

In our considered view, the said order cannot be executed as no effective relief was granted to the petitioners. In case their claim has not been considered by the Authority in terms of the order passed in Prem Singh and others' case (supra), the appropriate recourse for the petitioners would be to file a writ petition and not Execution Application. With liberty aforementioned, the Execution Application is disposed of.

7. Thereafter, CWP-10495-2018 was filed wherein the innocuous prayer made was that the writ petition be decided in terms of M/s Vishnu Apartments Pvt. Ltd. (supra) for release of the properties as per the Government policy or the observations made by the Court in the said case or any other order passed by this Court. It was noticed on 30.04.2018 by the Division Bench that acquisition was for development of commercial belt along southern peripheral road 62, 65 & 66 at Gurugram and the claim of the petitioner was that they were residents of Village Tigra. It was, in such



circumstances, on the issue of the representation being decided, speaking order was passed by the Principal Secretary to Government of Haryana, Urban Estates department on 03.02.2020 (Annexure P-12), which is now subject matter of challenge.

8. It is pertinent to notice that the said direction was passed without even taking reply or response from the State and the matter was disposed of on the first date of hearing and therefore, only on account of one-side projectment by the petitioners, the said order was passed. The Apex Court in **The Government of India and another Vs P. Venkatesh, 2019(15) SCC 613**, has held that the cause of action cannot be extended by filing a representation which was in principle the claim. It has been observed that ‘decide my representation mantra’ is the bane as such which leads to extended rounds of litigation and this is exactly the effect of the order that landowners have continued to be in possession though the award was passed way-back on 23.11.2011 and the land had vested with the State in view of Section 16 of the Act. Vide the said impugned order, it has been mentioned that the land of the petitioners was vacant at the time of survey and there was a recommendation not to release the land as the petitioners were co-owners of the land and physical possession was with HSVP and they were setting up their commercial plots on prime urban location of HSVP which was affecting the 24 meters wide road along the sector dividing road of Sectors 62 and 57 towards Sector 62 and commercial belt of Sector 62, Gurugram. It was also specifically mentioned that the case was not identical to M/s Vishnu Apartments Pvt. Ltd. (supra) as projected and is not covered. Relevant part of the order read as under:

“District Town Planner, Gurugram vide letter dated 18.04.2016 has reported that as per published FDP of GMUE-2031-AD, the land in question falls in commercial belt of sector-62, Gurugram. The land of petitioner affects 24 mtrs wide road along the sector dividing road of sector-62 and 57 toward sector-62 and commercial belt of sector-62, Gurugram. The land of the petitioner was vacant at the time of survey conducted at the time of section-4. As per latest site report, construction in khasra no.1//18/2 exist.

XXXX XXXX XXXX

4. Hon’ble Court has directed to consider the claim of the petitioners in terms of order dated 19.10.2015 passed in CWP No.11911 of 2011 titled as

Vishnu Apartments Pvt. Ltd. Vs. State. The case of Vishnu Apartments has been perused wherein prayer has been made for release of land by invoking the land release policy for grant of license. In view of orders dated 31.10.2011 of Hon'ble Supreme Court in SLP No.28411 of 2011 Kishore Chhabra vs State and others and further orders of the Govt., land has not been released. In view of the submission of the petitioners, the instant case is not covered under the above case. In view of reports of CA, HSVP, DTP and LAO, Gurugram, the request for release of land cannot be considered as the acquired land is the part of planning of HSVP. Moreover, as per report of Land Acquisition Collector, the objection u/s 5-A has not been filed. There was no construction at site at the time of acquisition. The claim of the petitioner is not covered under the policy of the Govt. for release of land, hence cannot be considered for release of land.”

9. It is, in such circumstances, the matter has been gone into. We are of the considered opinion that it is the petitioners who have been repeatedly approaching this Court to keep the issue alive. The award in question had been passed way-back on 23.11.2011. Only on account of some other builder who had applied for a licence and having got some benefit, projection was given that the petitioners are also similarly placed. As noticed there is not even a licence issued in favour of the petitioners and the ancillary proceedings which have been initiated are only for elongating the lis at the cost of the planned development. We have also gone through the site-plan (Annexure R-3/1) which go on to show that the possession of the land by the petitioners is only affecting the planned development of the Cyber City of Gurugram and therefore, the mushrooming of the same cannot be permitted as would be clear from the photographs. In such circumstances, we restrain ourselves from imposing costs upon the petitioners.

10. Resultantly, in view of the above discussion, the present writ petition stands dismissed. All pending application(s) also stand disposed of.”

3. In the present case, it is to be noticed that it is mentioned while passing of the speaking order that the land is required for the purpose of land development and for need of commercial use and was vacant at the time of issuance of notification under Section 4 of the Act except some construction

raised by 8 persons, but there is no habitation and on that account the LAC had recommended for acquisition. The acquisition proceedings had never have been subject matter of challenge on merit at any point time, after the award has been passed on 23.11.2011 and acquisition of land had vested in view of Section 6 of the Act. The usage as such of the land for land development is in speaking order which reads as under: -

“4. The land in question affects the planning of commercial belt, 24.0 mtr. Wide service road (12.0 mtr wide part of green belt and 12.0 mtr. part of sector road), 18.0 mtr. wide green belt along SPR and SPR road also, 24.0 mtr. wide internal circulation road of Sector-62, 65 & 66 Gurugram.

In view of the facts mentioned above, it is established that acquisition proceedings have attained finality in case of petitioners land in question and the recommendations of the constituted zonal committee have been approved by the Competent authority i.e. Govt. of Haryana whose decision was conveyed vide letter Memo No.A-1-2023/605 dated 03.02.2023. Accordingly, no claim of the petitioners is maintainable to view of above observations & request of the petitioners for release of their land is hereby rejected.”

4. We have also examined photographs, appended as Annexure P-4, which goes on to show that the said construction raised is in the form of shanties and the backdrop is of high rise building led to the observations made in *CWP-14077-2022 titled Rameshwar Vs. State of Haryana and others* on 14.03.2023, that the State has rather faulted in not taking possession of the land which had been acquired way back in 2000 and award passed in 21.07.2003. We have further passed certain orders in CWP-7218-2020, directing the State that it should recover the land which has been acquired more than 25 years back, which is valuable land bank of the State of Haryana, which is for the reasons best known to them they have failed to recover and permitted illegal and un-authorised construction to mushroom,

which is affecting the planned development of the Cyber City of Gurugram. Thus, Co-ordinate Bench of this Court has passed the following directions in CWP-12432-2023 on 20.10.2023 while deciding a bunch of cases:-

“102. The directions (supra), as made by this Court, and, which as revealed (supra), are in the process of being complied with by the respondent(s) concerned. Therefore, thereby though the respondent-State has been galvanized into action rather for ensuring, that the requisite remedial measures are ensured to be promptly taken by it, for thereby bringing the acquired lands to subserve the apposite public purpose. Nonetheless, the actions, which are in the process of being taken by the respondent-State, in compliance of the directions (supra), are yet required to be most promptly put into action. Therefore, the other functionaries also, as disclosed in above extracted paragraph 8 and 9, are also directed to take further action in pursuance to the above made directions.

103. In consequence, the actions proposed to be taken, be ensured to be so taken within three months from today, under intimation to this Court. As such, the above shall be construed to be a continuous mandamus, upon, the respondent-State and its functionaries, accordingly, with a direction to the Registry of this Court, to list the instant matters before this Court, as and when the apposite action takings are done, to be so revealed, thus through an affidavit being filed by the respondent(s) concerned, before this Court.”

5. Resultantly the arguments raised that the matter is covered by *M/s Vishnu Apartment Pvt. Ltd. case (Supra)* is of no consequence.
6. In view of the above discussion, the present petition stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK GUPTA)
JUDGE

06.11.2024

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