

In the High Court of Punjab and Haryana at Chandigarh

(110)

CWP No.32826 of 2018(O&M)

Date of Decision: 22.04.2024

Mahender Saini and others

.....Petitioners

Versus

State of Haryana and others

....Respondents

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

Present: Mr. Divyam Singh, Advocate for
Mr. Vikram Singh, Advocate for the petitioners.

Mr. Ankur Mittal, Additional A.G. Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate,
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate for respondent No.2.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners had earlier instituted Civil Writ Petition No.2760 of 2017 whereby the petitioners had prayed for the quashing of notification dated 31.07.2006 Annexure P-5, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter in short referred to as ‘the Act of 1894’), besides had asked for the quashing of a declaration issued on 09.08.2007 under Section 6 of the Act of 1894, Annexure P-6. Moreover the petitioners therein had also asked for the quashing of the award dated 22.07.2008, Annexure P-8. The said claims were made in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter in short

referred to as ‘the Act of 2013’).

2. Through a decision made on the said writ petition on 14.02.2017, Annexure P-9, thereby through the operative portion thereof, which occurs in paragraph 4 thereof, para whereof becomes extracted hereinafter, thus the CWP became disposed of:-

“After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their claims before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.”

3. Accordingly, the writ petition was disposed of with liberty to the present petitioners to file a comprehensive representation, thus, before

the appropriate authority, including therein all the reliefs supra, as became raised in the writ petition supra. Moreover, the appropriate authority was directed to, on receiving the said representation, thus make a decision thereons in accordance with law but after affording an opportunity of hearing to the petitioners. The said decision was directed to be made within a period of four months from the date of receipt of representation.

4. In pursuance of the said made directions being passed upon all concerned, the impugned Annexure P-10 has been rendered by the competent authority. Through Annexure P-10, the prayer made in the representation as became preferred by the present petitioner before the competent authority, rather has been declined.

5. The relevant reasons for making the declining order on the representation supra are embodied in paragraph 4 of Annexure P-10, para whereof becomes extracted hereinafter:-

“4. The status of compensation is as follows:-

(i) As regard, the status of overall compensation of acquired land at IMT-Faridabad is concerned, approximately 1784 acres land involving 2614 land owners was acquired, out of which 84% land owners have already lifted the compensation amount.

(ii) All the applicants have equal share in the total acquired land measuring 27 K- 3M. The compensation of the land measuring 26K-2M @ 16.00 lakh per Acre was paid to the applicants father to the tune of Rs.80,25,071/- vide Cheque no.536133 dated 20.8.2008 and the compensation of land measuring 1K-1M amounting to Rs.3,22,848/- has been

deposited in the ADJ Court vide Cheque no.631258 dated 22.11.2011, which was also lifted by the father of the applicants.

(iii). Further, enhanced compensation from Rs.16.00 Lakh to Rs.26.00 lakh per acre also paid to the father of the applicants for land measuring 26K-2M to the tune of Rs.68,28,112/- vide Cheque no.631021 dated 6.12.2011. The enhanced compensation for land measuring 1K-1M of Rs.2,74,694/- was also lifted by the father of the applicants from the ADJ Court.

(iv) 50% enhanced compensation of Ld. ADJ Court amounting to Rs.93,45,833/- for land measuring 26K-2M has been paid to the applicants vide Cheque No.125486 dated 20.12.2012.

(v) Rest of 50% enhanced compensation of Ld. ADJ Court amounting to Rs.87,37,101/- of land measuring 24K-8M was also paid to the applicants through RTGS. Further, the rest of amount to Rs.17,62,287/- for the rest of land measuring 1K-1M was also paid to the applicants.

(vi) The enhanced compensation of Hon'ble High Court amounting to Rs.86,68,917/- for land measuring 24K-8M was paid to the applicants through RTGS and the rest of the amount of Rs.3,69,993/- was also paid to the applicants through RTGS.

(vii) Again, the compensation for land measuring 1K-14M amounting to Rs.3,20,664/- raised by the Ld. ADJ Court and Hon'ble High Court was also paid to the applicants.

(viii) The structures compensation amounting to Rs.10,35,760/-

was also paid to the father of the applicants vide Cheque no.231211 dated 17.5.2012.

The father of the applicants has already been allotted a 14 marla plot bearing plot no.199 in zone-4, sector -69, IMT- Faridabad under R&R Policy. Accordingly, 10% amount of the tentative price of the plot i.e. Rs.3,52,604/- was deposited by father of the applicants on 24.12.2013. Further, Letter of Intent for the plot issued to the father of the applicants on 21.07.2016. Again, the father of the applicants also deposited the 15% of the cost of the plot i.e. 4,60,636/- on 03.12.2016. Accordingly, RLA of the plot also issued on 30.12.2016.

In view of the discussion above, the committee is of the view that the applicants cannot claim lapse of proceedings in terms of the provisions of section 24(2) of RFCT LARR Act, 2013. Further, the issue pertaining to interpretation of section 24(2) of new act is already sub-judice before the Hon'ble Apex Court in civil appeal no.4835 of 2015 titled as Maharana Pratap Charitable Trust v/s State of Haryana. Accordingly, the committee recommends that the plea of the applicants may be rejected being devoid of any merit.

The State Government (in Industries Department) approved the recommendations of the committee and is of the view that no relief can be granted to the subject petitioner u/s 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and

hence the request for release of land in terms of section 24(2) is hereby rejected.”

6. A reading of the above extracted paragraphs as occur in Annexure P-10 reveals, that the father of the petitioners had received the assessed compensation, in so far as, the same related to his share in the joint land, thus not only from the establishment of the Collector concerned, but had also received the enhanced amount compensation from the establishment of the learned Reference Court concerned. Furthermore, it is also apparent on a reading of the above extracted paragraphs, that *prima facie* in the apposite RFA, as became instituted before this Court at the instance of the aggrieved land-losers concerned, thus 50% of the therein assessed compensation amount, beyond the one as became assessed by the learned Reference Court vis-a-vis the land-losers concerned, also *prima facie*, becomes released to the present petitioners. Consequently, therebys when the petitioners have received compensation, respectively, from the establishment of the Collector concerned; from the establishment of learned Reference Court, besides from the establishment of this High Court, thereby the receiving of the said determined amounts of compensation by the present petitioners, does completely estops them, from challenging the notification for acquisition. The reasons for fortifying the above inference is galvanized from the speakings made in Annexure P-10, wherein, it is echoed that compensation has also been disbursed to the present petitioners in respect of their structures which were existing on the subject lands.

7. Apart from the above, the petitioners are also revealed in Annexure P-10 to be recipients of the rehabilitation and resettlement policies

inasmuch as a plot measuring 14 marlas stands allotted to the present petitioners. Consequently, with the petitioners becoming recipients of all the above benefits, therebys when they acquiesce to the valid launchings of the acquisition proceedings, resultantly, thereby they are, at this stage, completely estopped from challenging the said launched acquisition proceedings.

8. Finding no merit in the instant writ petition, the same is dismissed along with all pending applications, if any. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

April 22, 2024
d.gulati

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