

2024.PHHC.160873-DB



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

(104)

**CWP-32209-2024
Decided on: 29.11.2024**

Sant Ram

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr.Omkar Chauhan, Advocate, for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, DAG, Haryana.

Mr.Ankur Mittal, Advocate
Ms.Kushaldeep Kaur, Mr.Siddhanth Arora,
Advocates, for respondents No.2 & 4.

G.S. Sandhawalia, J. (Oral) :

1. After almost 30 years when the award was passed on 01.05.1995 (Annexure P-14), the acquisition proceedings initiated under Section 4 dated 02.08.1989 (Annexure P-2) and under Section 6 dated 01.08.1990 (Annexure P-5) of the Land Acquisition Act, 1894 (for short the 'Act') have been challenged and directions have been sought to decide the representation dated 13.11.2024 (Annexure P-16) on the ground that the sole residential house of the petitioner is in existence since decades.

2. The 1st Bench, headed by the then Chief Justice had already adjudicated on an earlier round of litigation and depreciated the conduct of the petitioner along with the brothers who had filed the earlier round of

litigation in CWP-94-2018 titled *Sant Pal & others Vs. The State of Haryana & others*, decided on 03.02.2022 (Annexure P-10). Relevant portion of the judgment reads as under:

“11. We highly deprecate the way pleadings in the instant case have been made in the writ petition. Despite the notifications being self-speaking and indicating the details of the land being acquired, wrong notifications are being challenged and the entire development process is being held up for years altogether. Such a practice reflects how the diligence required while drafting the petitions is diminishing and the constitutional courts are being treated nothing more than a post office. In view of the aforesaid, there is no point and in fact scope in the petition to entertain the challenge to the acquisition proceedings which has not been specifically impugned in the petition as mere mentioning of the details of the land, without there being supporting notifications is not sufficient to even entertain much less to grant any relief. This is de hors the fact that even if such notifications would have been impugned, in view of the facts as noticed below and the settled law in this regards, petitioners are not entitled to any relief.”

3. Undeterred by such scathing observations, another petition had been filed bearing CWP-655-2023 titled *Sant Ram Vs. State of Haryana & others* in which prayer was made not to demolish the house of the petitioner as existing on the plot measuring 107 sq.yards falling in Khasra No.50//15/2 situated in Mayur Vihar Colony, Mewla Meharajpur, Tehsil & District Faridabad on the ground that it already stood released from the acquisition.

4. State had contested the same and clarified the position by filing written statement. Relevant portion of the same reads as under:

“3. That at the outset, land in question bearing Khasra No.50//15/2(7-0) of Village Mewla Maharajpur which includes the House of petitioner District Faridabad was purposed to be acquired vide notification dated 02.08.1989 and 01.08.1990 issued

under section 4 and section 6 of the Land Acquisition Act, 1894 respectively followed by the Award dated 07.10.1991 for the public purpose namely, Development and utilization of land as Residential and Commercial Sector-45, Faridabad. The possession of the land in question was taken and handed over to the Estate Officer, HSVP Faridabad by LAC Faridabad and vide Rapat roznamcha No.66 dated 07.10.1991. Further 11 Marla land was released out of Khasra No.50//15/2(7-0) in view of objections under Section 5A of the Land Acquisition Act which is also recorded in the written statement dated 02.01.1992 (Annexure P-5) and same was not included in the notification dated 01.08.1990 (Annexure P-2) and rest of the land of the bearing Khasra No.50//15/2 was duly acquired. Further the present petitioner can not claim any benefit as per order dated 03.08.2010 (Annexure P-8) as the CWP No.1886 of 1991 stood dismissed as withdrawn vide order dated 02.12.2003 (Annexure P-7) as far as the petitioner No.1 i.e. Abdul Wahid Khan is concerned from whom present petitioner claims to have purchased land in question.

4. That it is further respectively submitted that 11 Marla Land bearing Khasra No.50//15/2 Min (0K-11M) was acquired by the State of Haryana where House of the petitioner stands vide notification dated 25.02.1992 and 03.05.1993 issued u/s 4 and 6 respectively followed by award No.3 dated 01.05.1993 for the public purpose namely for the development and utilization of land as Sector dividing Road of Sector 45 and 46 and District Shopping Centre, Sector 45, Faridabad and the possession of the acquired land was taken over vide Rapat Roznamcha No.423 dated 01.05.1995. The copies of notification dated 25.02.1992, 03.05.1993 and Award No.3 Dated 01.05.1995 are annexed herewith as Annexure R-1, R-2 and R-3 respectively for the kind consideration of the Hon'ble Court.

5. That it is respectively submitted that the possession of the land comprising in Khasra no.50//15/2Min (0-11) was taken vide Rapat no.423 dated 01.05.1995. The mutation bearing No.5900 has already been entered in favour of the beneficiary department i.e. HSVP. Moreover, the petitioner has not filed any objection under Section 5A.

XXXX XXXX XXXX

6. That it is respectively submitted that the land in question bearing Khasra No.50//15/2Min. (0-11) has already vested in the State. The acquisition is complete. The land in question is very much essential to complete the development work as per the planning. The land of the petitioners affects the alignment of sector dividing road of Sector 45 and 46 as per development plan.”

5. In view of the said stand taken by the State, petitioner had no option but to withdraw the writ petition on the ground that he would be given liberty to approach the respondents for the relief. Order dated 22.03.2023 reads as under:

“In the light of the reply, which has been filed by the respondents, counsel for the petitioner prays for withdrawal of the writ petition with liberty to approach the respondents for the relief.
Disposed of as withdrawn with liberty aforesaid.”

6. After more than 1 ½ years, a representation dated 13.11.2024 (Annexure P-16) has been filed seeking directions, on which, a writ of mandamus is now sought, to decide the same without having any legal right and after having lost out in two rounds of litigation and the second round directly connected as apparently, without raising any challenge to the notifications in question but only against the action of demolition of the house. In such circumstances, principle of constructive *Res-Judicata* would arise as the petitioner cannot be permitted to take different reliefs at different points of time.

7. It is to be noticed that in the first round of litigation, the petitioner had challenged another set of acquisition proceedings under Section 4 dated 02.08.1989 and under Section 6 dated 01.08.1990 and the awards dated 07.10.1991 and dated 08.02.1995 on the ground of lapsing,

which was filed before the First Bench, at that point of time and the scathing observations came that the details of the wrong notifications were given, while thrashing out the wheat from the chaff by a detailed judgment and while referring to the various chunks of land which were sought to be challenged in the acquisition in question.

8. It is to be noticed that Khasra No. 50//15/2 is measuring 7 kanals, which had been noticed by the earlier Bench. The petitioner is purchaser of only 11 marlas of land out of the said khasra number from one Abdul Wahid Khan vide sale deed dated 07.07.1990 (Annexure P-3). The said vendor had challenged the initial acquisition process and secured release of 11 marlas of land and his writ petition bearing CWP-1886-1991 was dismissed on 03.08.2010 (Annexure P-9) along with connected matters lead case being CWP-1593-1991 titled *Chandu Singh & others Vs. The State of Haryana & another*. Relevant portion of the judgment reads as under:

“As regards category No.3 i.e. C.W.P. Nos.1994, 1886 and 1705 of 1991, these writ petitions deserve to be dismissed on the ground that the constructed area of the residential houses stand already released and, therefore, no directions with regard to the land to the extent occupied by the structure is required to be issued. However, in case equal open area abutting the structure has not been released for the beneficial enjoyment of the petitioners, the same shall be released by the respondents from the land of the petitioners.”

9. Apparently, the petitioner is seeking to confuse the issue of the said release order in his favour that this was the land released whereas he was never litigant at any point of time and only the purchaser from the said vendor who got the said release order. The sale deed also does not

and the petitioner is only purchaser of a portion of 11 marlas land out of 7 kanals. Apparently, there is nothing to show that there was any construction raised at the time when the notification was issued on 25.02.1992. From the written statement filed in CWP-655-2023, as noticed above, the petitioner had not even filed Section 5A objections. Had there been any construction at any point of time, the necessary objection would have been filed.

10. In such circumstances, we are constrained to dismiss the writ petition on account of the fact that the earlier round of litigation has already been decided against the petitioner and he had withdrawn the second writ petition. He had never challenged the acquisition proceedings though it was upto him since the petition was filed in the year 2018 and the award was passed way-back in 1995. Having failed to raise challenge in the first round, it is not open to him to file a third petition on the same cause of action.

11. Lastly, the delay factor mitigates against the petitioner as it is settled principle that the landowner has to approach this Court at the earliest and even before passing of the award whereas after almost 30 years, the petitioner has approached this Court. The land is being acquired which would be clear from the Section 4 notification dated 25.05.1992, for the purpose of utilization of the land for the dividing roads of Sectors 45 & 46 and the District Shopping Centre, Faridabad and it is only at a subsequent point of time, the utility of the left out land had occurred and though the land had been released earlier. The public purpose, thus, is also apparent on the record and therefore, the planned development of the

whole area is at a stand-still on account of the repeated litigations initiated by the petitioner.

12. Resultantly, in view of the above discussion, we dismiss the present writ petition. However, we refrain ourselves from imposing exemplary costs, keeping in view the fact that the writ petition is being dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

29.11.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No