



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103/2

CWP-2462-2006 (O&M)

Date of Decision: 17.02.2025

Partap Singh (since deceased) through his LRs and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Naresh Kaushal, Advocate and
Mr. Nitish Kaushal, Advocate for the petitioners.

Mr. Maninder Singh, Sr. Deputy Advocate General, Punjab.

Mr. R.S.Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate for respondent – PUDA.

Sureshwar Thakur, J. (Oral)

1. The writ petition arises from notification(s) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'), besides also arise from declaration(s) issued under Section 6 of the 'Act of 1894'.

2. The present petitioners claim the hereinafter extracted reliefs.

Civil Writ Petition under Articles 226/227 of Constitution of India, for quashing:

a) Notification issued by the Secretary, Housing and Urban Development under Sections 4 and 6 of the Land Acquisition Act, 1894 dated 25.11.2004 and dated 30.06.2005 (Annexures P/2 and



P/3 respectively) on the ground explained in the writ petition.

AND

b) For Declaration that Section 23(1) First of the Land Acquisition Act. 1894 is ultravires of Article 31-A, Second Proviso, because, the said Act does not provide the fixing of compensation, "at no less than market price", as on the date of acquisition.

AND

c) For seeking declaration that the provisions of Punjab New Capital (Periphery) Control Act, 1952, be declared as ultravires of Second Proviso of the Article 31-A of the Constitution as it imposes illegal and unreasonable restriction on the fundamental rights of the land owners, whose total holdings is within the permissible limits and personally cultivate the same.

AND

d) For declaring that the policy of the Government that acquisition shall be done by the department, who is interested in acquiring the land, establishes a procedure which is not fair to the right holders and is void being in contravention of principles of natural justice and Article 14 of the Constitution.

e) The notification under Section 56 of the Punjab Regional and Town Planning and Development Act of 1995 is said to have been issued in the year 1996. That notification is liable to be quashed as Public was kept in dark and no objections as required could be filed. That notification also liable to be quashed.

AND

f) That acquisition is being ordered/notified in violation of the provisions of Punjab Regional and Town Planning and Development Act, 1995 which is mandatory.

AND



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g) The notices under Section 9 of the Land Acquisition Act, 1894 are not served according to law and are not issued for clear 15 days.

3. During the pendency of the instant writ petition, the learned counsel for the petitioners, vide application bearing No.CM-19474-CWP-2023, seeks relief qua the subject acquisition being declared to be lapsed, in view of law laid down by the Hon'ble Apex Court in Civil Appeal bearing No.7424 of 2013 titled as ***“Karnail Kaur and others Vs. State of Punjab and others”***.

4. In a Bunch of 56 writ petition(s), bearing CWP No.7050-2001 and connected cases, a challenge was made to the launching of the acquisition proceedings in respect of the subject lands. However, through a common judgment made on 19.04.2011, upon the said bunch of writ petition(s), the said challenge failed. Naturally therebys, the launched acquisition proceedings in respect of the subject lands became upheld.

5. However, some of the aggrieved from the judgment (supra) passed by this Court made a motion thereagainst before the Hon'ble Supreme Court. On the relevant Civil Appeal bearing No.7424 of 2013 titled as ***“Karnail Kaur and others Vs. State of Punjab and others”***, the Apex Court after considering the fact, that the therein appellants, rather were entitled to become endowed the benefit of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short called as 'the Act of 2013'), thereupons, in the hereinafter extracted operative part of the said verdict, the



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Apex Court allowed the appeals of the therein appellants, and, proceeded to declare the acquisition proceedings in respect of the subject lands, to become lapsed.

“The above said amendment has come into force w.e.f. 01.01.2015. With due regard to the same, we are of the view that the amendment would not be applicable to the case on hand for the reason that these appeals were pending much prior to the ordinance and also the applications under Section 24 (2) of the Act of 2013 were filed prior to the amendment to Section 24 (2) by Ordinance and the same were heard and reserved for orders on 28.10.2014 and therefore the Ordinance in so far as insertion of proviso to the above Section by way of an amendment is prospective.

xxxx

22. In view of the aforesaid findings and reasons recorded by us, the acquisition proceedings in respect of the appellants' land have lapsed...”

6. Be that as it may, the hereinabove underlined portion of the operative part of the verdict rendered by the Hon'ble Apex Court on **Civil Appeal No.7424 of 2013**, is of extreme relevance, as thereins, the benefit of the lapsing provisions, as became endowed to the land losers concerned rather became restricted only to the appellants thereins.

7. The learned counsel appearing for the present petitioners, does not dispute, that the present petitioners were not the appellants in the said laid civil appeal before the Apex Court, therebys, but naturally the judgment passed by this Court on 19.04.2011, upon, a bunch of 56 writ petition(s) bearing No. **CWP-7050-2001 and connected cases**, wherebys, the acquisition

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proceedings, became declared to become successfully launched, thereby, in-so-far as the present subject lands are concerned, but does acquire complete effectivity and conclusivity. Moreso, a perusal of reply furnished by the State, reveals that the amount of compensation has been deposited in the Court of learned Additional District Judge, S.A.S. Nagar, for disbursal.

8. Being so, the present petitioners through instituting the instant writ petition before this Court, appear to, despite the Apex Court, in the above alluded to operative part, as occurs in a verdict rendered upon **Civil Appeal No.7424 of 2013**, titled as **Karnail Kaur and others Vs. State of Punjab and others**, rather restricting the benefit of Section 24 (2) of the Act of 2013, to the appellants therein, yet have proceeded to, seemingly circumvent, the said verdict, through theirs making an ill plea, founded upon yet applicability to them, vis-a-vis the mandate of Section 24(2) of the Act of 2013.

9. The said endeavour was required to be avoided, as thereby if the said motion succeeds, thereupons, this Court would proceed to unnecessarily disturb, the conclusive and effective rendition, as became pronounced by the Hon'ble Apex Court in Civil Appeal (supra), whereby, only to the appellants therein, the benefit of Section 24 (2) of the Act of 2013, was endowed, whereas, qua those, who were not arrayed as appellants therein, rather the benefit of Section 24 (2) of the Act of 2013 rather was declined, especially when one amongst the persons' to whom the benefit of the said declaration, thus was not to be endowed was the present petitioners, as they were not arrayed as appellants in the said civil appeal.

10. Naturally, only if the said judgment was successfully reviewed at



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the instance of the present petitioners, on a motion being made by the present petitioners, thereupon alone the present subsequent endeavour, as made by the present petitioners would be a well made endeavour.

11. Without further commenting upon the instant mis-constituted writ petition becoming instituted before this Court, this Court is required to be determining, the veracity of the submission made before this Court, by the learned counsel for the petitioners, as relates to the applicability to the present petitioners, qua the special package envisaged qua the acquired lands.

12. The learned counsel appearing for the petitioners, has vigorously argued before this Court, that since the land measuring 1106.28 acres, become subjected to acquisition, and when the notification(s) for acquisition also were with respect to the lands which carried similar dimensions, thereby, irrespective of the judgment (supra) passed by the Hon'ble Apex Court, yet, the present petitioners are to be endowed the benefit of the award.

13. However, this Court is in complete dis-concurrence with the supra argument addressed before this Court by the learned Counsel for the petitioners. Primarily, the initial reason for stating so, is but that, thereby this Court would be not only *ipso facto* contradicting the above inference, appertaining to the fact, that once the petitioners land has been subjected to valid acquisition, besides thereby, this Court also would be yet endowing to the petitioners rather the benefit of apposite policy. If the said endowment is yet made in favour of the petitioners, thereupon, the present petitioners would be doubly enriched, as the amount has been tendered for disbursal.

14. However, again the focus as made upon the present petitioners,



upon the policy, is a complete mis focus thereons, as the learned counsel for the petitioners rather has not being mindful to clause 4.0 and clause 5.0, as enclosed in the policy, clauses whereof became extracted hereinafter.

“4.0 Due to the cancellation/rejection of acquisition of land PUDA/GMADA is facing difficulties in providing connectivity to the allotted plots/sites and constructions in the sector 76-80 and the development works of these sectors could have not been completed. Apart from this, a total of 1021 plots falls in abovesaid sectors, whose land acquisition has been cancelled and there are 786 plots of such type, which are not directly falls under litigation, but basic facilities/amenities i.e. road, water supply and sewerage lines cannot be provided to the plots/flats of these sectors. Thus, these plots are not feasible for construction. That 672 Letter of Intent – LOIs have been issued in favour of the applicants and allotment letters of 553 plots out of these total 672 have been issued in favour of owners and Conveyance Deeds of 179 plots, out of 672 plots have been issued in favour and out of these 179 plots buildings have been constructed on 53 plots.

*5.0 Apart from the above, some portion of cancelled/rejected land falls between the allotted plots/sites falls to societies in which sites namely Ratan Professional College, Maharaja Ranjit singh Armed Forces Academy, Radha Swami Satsang Society etc are included. Although the possession of the rejected/cancelled land is still with these institutions, **but after the final decision of the Hon'ble Supreme Court, the ownership of this land has been transferred in favour of the land owners, due to which possession of the land falls under the land/area so, allotted to these institutions have to be handed over to these owners.**”*

15. A circumspect reading of the aforesaid clauses, does tritely

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establish the fact, that the benefit of the said policy was to be endowed only to those land losers concerned, who were recipients of the judgment passed by the Hon'ble Apex Court in Civil Appeal No.7424 of 2013, and since the present petitioners were not granted relief for the supra stated reasons, by the Apex Court. Therefore, also they are not entitled to become endowed the benefit of the special policy.

Contentions of the learned counsel for the petitioners for seeking the writ reliefs.

16. The learned counsel appearing for the petitioners, has with much vigor made a contention, that since those parts of the acquired lands which fall within the '*lal lakir*' and the '*phirni*' of the village, thus become declared in clause (g) of the policy dated 20.01.2006, of the State Government, clause whereof stands extracted hereinafter, to be not amenable for acquisition. Therefore, he contends that qua those portions of the writ lands as are falling in the village *abadi* besides are within the extended *abadi*, besides especially when therebys the said lands are part of the heritage site of the village, thereupons when they are, thus required for maintaining the agrarian cultural ethos of the village. Resultantly, to that extent the acquisition notification is prayed to be quashed and set aside, besides the consequent thereto award is also prayed to be quashed and set aside.

(g) Existing Rural Settlements. - Considering the existing as well as future development needs of the villages falling within the Periphery as well as with a view to cater to their increasing population, it would be prudent to provide a sufficiently compact and contiguous belt of land around the village "*phirni*" for ensuring the organic growth of these villages. Any area falling



between the "lal lakir" and the 'phirni' of the village shall also be treated as part of the extended belt. The area should be allowed to be used primarily for meeting individual residential and *petty commercial needs of the existing and future population of a village. However, charges for change of land use should be levied on prescribed rates, except in the case of bona fide residents. No industry should be permitted in such area. Similarly, formal colonization shall also not be permitted in the extended 'abadi' area on the pretext of this recommendation alone.*

With these caveats, the Committee proposes to allow the village "Abadi" area extension by 60% subject to a minimum of 50 metres and maximum of 100 metres in radial length from the 'phirni'. However, where the existing Abadi Deh or a part thereof is an area which forms a part on the rural/agricultural and afforestation zone of the Outline Master Plan/Draft Comprehensive Master Plan/Comprehensive Master Plan prepared under the Punjab Regional and Town Planning and Development Act, 1995, the extent of such area shall be limited to 50 metres. Permitting construction in the notified forest areas falling in these villages would, of course, be subject to due approval as regards change of land use. No permission should, however, be granted in any area which falls within the Sectoral Grid of SAS Nagar (Mohali), as reflected in the Outline Master Plan. The extent of area where such constructions are to be permitted will be demarcated and certified for each village falling within the Periphery by the Revenue Authorities, subject to the final approval of PUDA. In order to promote planned development, it is proposed that construction in the area should be regulated by a set of simple building norms, subject to payment of Land Use conversion charges and in accordance with other details as contained in Annexure C. However, to avoid hardship to villages and land owners, the area in the extended



abadi deh shall be exempted from the provisions of the Punjab Apartment and Property Regulation Act, 1995.”

17. In consequence, they argue that on makings of acquisition(s) of the above lands, there would be effacement of the sacrosanct site of the village.

Contentions of the learned State counsel

18. The learned State counsel has filed the written statement, wherein, he contends that in case the writ reliefs are allowed, thereby this Court would be proceeding to untenably accord to the petitioners, the benefit of the lapsing provisions, as carried in sub section (2) of Section 24 of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short refer to as the 'Act of 2013'), despite, adduction of the relevant discharging evidence, thus in satiation of the twin parameters enshrined therein, inasmuch as, despite rapat possession becoming evidently assumed, of the acquired lands, but prior to the coming into force of the 'Act of 2013', and, also despite compensation but before the coming into force of the 'Act of 2013', thus becoming deposited in the Government Treasury, for thereby it becoming available for being disbursed to the land-losers concerned.

19. In making the above submission, the learned counsel for the respondents, thus has made reliance, upon, paragraph No.363 of the verdict rendered by the Hon'ble Supreme Court, in case titled as '**Indore Development Authority Versus Manoharlal and others**', to which SLP (Civil) Nos. 9036-9038 of 2016, has been assigned, para whereof is extracted hereinafter.

"363. In view of the aforesaid discussion, we answer the



questions as under:

- 1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.*
- 2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.*
- 3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.*
- 4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect*



to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.



9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

For the reasons to be assigned hereinafter, the submission made by the learned counsel for the petitioners are rejected and the contentions raised by the learned State Counsel is accepted

20. Even, if assumingly the benefit of the lapsing provision, as enshrined in the mandate carried in Section 24 (2) of the 'Act of 2013' may not be available to become assigned to the land-losers concerned. However, irrespective of the fact *qua* the launching of the acquisition proceedings at the very inception were, *prima facie*, rather in contravention of the above extracted clauses, as exist in the relevant policy, as becomes framed by the Government of Punjab.

21. Moreover, when this Court in planking thereons, a *prima facie* inference, for therebys it *prima facie*, tentatively declaring non est the issuance of the notification(s) (supra), in-so-far as, they relate to evident infractions being made to the above extracted clause, it rather becomes led to do so on the hereinafter premise(s).

- a) The *abadis* within the declared *abadi deh* zones of the village concerned, but are an integral part of the agrarian ethos.
- b) The *abadis* or the *abadi* homes of the *abadi* owners which fall within the *abadi deh* are a sacrosanct heritage of the village or



of the *mohal*. Therefore, they are to be preserved as such, through ensuring that on urbanized planing taking place, thus the heritage *abadi deh*, which rather is the sacrosanct site of the village, does not either disappear nor becomes effaced.

c) The earmarkings of *abadis* does take place during the consolidation operations and the reservation of *abadi dehs* by the consolidation officer, does also advance, the agrarian character of the village.

d) Since the agrarian character of the village, is to be maintained and/or is to be preserved, thereby the acquisition of *abadis* or acquisition(s) of adjacent thereto lands, may be avoided, especially when in times to come, the extensions of the *abadi* areas, thus may be required, for accommodating, the increasing population in the *mohal*, thus for enabling the increased population to create *abadis*, on such extended *abadi* belts.

e) Though in the column of ownership *abadi deh* lands are described to be owned by the *abadi deh*. However, the person who raises *abadis* within the *abadi deh*, are yet not interdicted to amongst themselves alienate possessions through execution of deeds of conveyance. Therefore, if so, the records of rights which in the column of ownership thereof, declare the *abadi deh* land to be owned by the *abadi deh*, thereupon they rather appear to be antithetical to the concept of ownership, which but obviously inheres in the *abadi* raiser on *abadi deh*. As such, in the column of ownership appertaining to lands designated as *abadi deh*, *abadi* owners are to be considered to be included in the apposite column of ownership.

f) The above would facilitate, that thereby the principles of succession apply, especially when in absence of the above declaration(s) in the column of ownership, thereby only the possession of the *abadi* homes, would be the relevant principle,



rather for succession thereto becoming assumed by the surviving possessor thereof. Resultantly thereby the rules of succession may become whittled down, unless a testamentary disposition is made by the deceased *abadi* owner concerned.

g) In sequel, for overcoming the above, this Court recommends to the State of Punjab to make orders for updating the revenue records, relating to the ownership column of *abadi deh* lands, thus through in substitution thereof *qua* the apposite extant designation as *abadi deh*, rather their occurring in the ownership column of *abadi deh* lands, thus the name of the raiser of the *abadi* on the *abadi deh*.

h) The above may also facilitate the entitlement of the *abadi* holders concerned, to receive compensation which they otherwise may, *prima facie*, become dis-entitled to, but on a mis-presumption, that the *abadi* owners who have raised *abadi* on the *abadi deh* land, are not reflected in the column of ownership, to be owning such raised *abadis*, on *abadi deh* lands.

22. Though this Court has made the hereinabove inferences but since there are plain speakings in the reply, on affidavit, by the respondents, that compensation *qua* the acquired land stands deposited by the Land Acquisition Collector, Urban Development, S.A.S. Nagar, in the Court of learned Additional District Judge, S.A.S. Nagar, for the same being available to be disbursed to the land-losers concerned.

23. Furthermore, since it also evidently emerges that, *prima facie*, the existence of any purported *abadi* on any purported *abadi deh*, rather is a mis-raised contention. Moreso, also when in the earlier round of litigation, the above became not raised. The reasons for forming the above conclusion arises from the fact that the above contention is raised upon the relevant entry

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existing in the relevant jamabandi, but yet conclusive and cogent evidence but was required to be adduced by the petitioners, thus displaying that the said entry also relates to the acquired lands. However, the said evidence is grossly amiss.

24. In consequence, since the above becomes a disputed question of fact. Therefore, irrespective of the makings of the hereinabove inferences, this Court does not deem it fit and appropriate to clinch here, the instant disputed question of facts (supra), nor thereby the petitioners are entitled to seek a mandamus rather for enforcing the Government Policy (supra).

25. Further, the respondents in their reply-affidavit, as well as in their arguments, firmly contend that the writ land(s), were acquired for furthering the requisite public purpose, and, that the petition lands are an integral component of the layout plans relating to the completion of the relevant public purpose. Therefore, since this Court is not well enabled to review or re-call the layout plans. Resultantly, this Court refrains from doing so.

26. Furthermore, since predominance is to be assigned to the larger public purpose than to individual interests of the estate holders concerned. Therefore, in doing so, this Court also refrains from allowing the petitioner(s) claim for the acquired lands becoming released from acquisition.

Final Order of this Court

27. In aftermath, this Court finds no merit in the writ petition(s), the same being completely frivolous, thus are required to be dismissed with costs. Therefore, the same are dismissed with costs of Rs.25,000/- each, upon each of the petitioners to be forthwith deposited by them with the Treasurer of the



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‘Punjab and Haryana High Court Bar Association’.

28. The impugned notification(s) and the consequent thereto award are maintained and affirmed.

29. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 17, 2025
Varinder

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